

LAWS OF BRUNEI

CHAPTER 22

PENAL CODE

No. 16 of 1951

Chapter 22 of 1951

Amended by

Enactment No. 19 of 1953

Enactment No. 24 of 1953

S 104/1980

E 2 of 1982

S 4/1982

1984 Edition, Chapter 22

Amended by

S 3/1986

S 26/1988

S 49/1989

S 12/1997

S 4/1998

S 5/1998

S 11/1998

S 38/1998

S 21/1998

2001 Edition, Chapter 22

Amended by

S 26/2012

S 25/2014

S 51/2014

REVISED EDITION 2016

LAWS OF BRUNEI
REVISED EDITION 2016

CHAPTER 22
PENAL CODE

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- 489D. Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes

CHAPTER XIX

CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. — 492. *No sections*

CHAPTER XX

OFFENCES RELATING TO MARRIAGE

- 493. Cohabitation caused by man deceitfully inducing belief of lawful marriage
- 494. Marrying again during life-time of husband or wife
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted
- 496. Marriage ceremony fraudulently gone through without lawful marriage
- 497. *No section*
- 498. Enticing or taking away or detaining with criminal intent married woman

CHAPTER XXI

DEFAMATION

- 499. Defamation
- 500. Punishment for defamation
- 501. Printing or engraving matter known to be defamatory
- 502. Sale of printed or engraved substance containing defamatory matter

CHAPTER XXII

CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503. Criminal intimidation
- 504. Intentional insult with intent to provoke breach of peace
- 505. Statements conducting to public mischief
- 506. Punishment for criminal intimidation
- 507. Criminal intimidation by anonymous communication

- 508. Act caused by inducing person to believe that he will be rendered object of divine displeasure
- 509. Word, gesture or act intended to insult modesty of woman
- 510. Misconduct in public by drunken person

CHAPTER XXIII

ATTEMPTS TO COMMIT OFFENCES

- 511. Punishment for attempting to commit offences
-

PENAL CODE

An Act to establish a code of criminal law

Commencement: 1st May 1952

CHAPTER I INTRODUCTION

Citation

1. This Act may be cited as the Penal Code.

Punishment of offences committed within Brunei Darussalam

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof of which he is guilty within Brunei Darussalam.

Punishment of offences committed beyond, but which by law, may be tried within Brunei Darussalam

3. Any person liable to be tried for an offence committed beyond the limits of Brunei Darussalam shall be dealt with according to the provisions of this Code for any act committed beyond Brunei Darussalam in the same manner as if such act had been committed within Brunei Darussalam.

4. *(No section).*

Certain laws not to be affected by this Code

5. Nothing in this Code is intended to repeal, vary, suspend or affect any of the provisions of any special or local law or any of the provisions of any Act for punishing offences by officers, soldiers or constables in the military or police forces of Brunei Darussalam.

Application

5A. The provisions of Chapters I, II, III, IV, V and VA shall, save where the contrary intention appears, apply to any written law in force and to any instrument made thereunder.

CHAPTER II

GENERAL EXPLANATIONS

Definitions in Code to be understood subject to exceptions

6. Throughout this Code, every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled “General Exceptions”, though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations

(a) The sections in this Code which contain definitions of offences do not express that a child under the age of 7 years cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under the age of 7 years.

(b) *A*, a police officer without warrant apprehends *Z*, who has committed murder. Here, *A* is not guilty of the offence of wrongful confinement, for he was bound by law to apprehend *Z*, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it”.

Sense of expression once explained

7. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Gender

8. The pronoun “he” and its derivatives are used of any person, whether male or female.

Number

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

“Man” “Woman”

10. The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age.

“Person”

11. The word “person” includes any company or association, or body of persons, whether incorporated or not.

“Public”

12. The word “public” includes any class of the public or any community.

13. — 16. (*No sections*).

“Government”

17. The word “Government” denotes the person or persons authorised by law to administer executive Government in any part of Brunei Darussalam.

18. (*No section*).

“Judge”

19. The word “Judge” denotes not only every person who is officially designated as a Judge, but also every person —

(a) who is employed by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or

(b) who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

(a) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

“Court of Justice”

20. The words “Court of Justice” denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law

to act judicially as a body, when the Judge or body of Judges is acting judicially.

“Public servant”

21. The words “public servant” denote a person falling under any of the following descriptions —

(a) every person holding office by virtue of any commission or warrant granted by His Majesty the Sultan and Yang Di-Pertuan or by his authority;

(b) every commissioned officer in the military or police forces of Brunei Darussalam;

(c) every Judge;

(d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties;

(e) every juryman or assessor assisting a Court of Justice or public servant;

(f) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

(g) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(h) every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(i) every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of

Government, or to execute any revenue process, or to investigate or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

(j) every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

Illustration

A Municipal Chairman is a public servant.

Explanation 1 — Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2 — Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

“Movable property”

22. The words “movable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

“Wrongful gain” and “wrongful loss”

23. (1) “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled: and “wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

(2) A person is said to gain wrongfully when such person retains wrongfully as well as when such person acquires wrongfully.

(3) A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

“Dishonestly”

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly”.

“Fraudulently”

25. A person is said to do a thing “fraudulently” if he does that thing with intent to defraud, but not otherwise.

“Reason to believe”

26. A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise.

“Property in possession of wife, clerk or servant”

27. When property is in the possession of a person’s wife, clerk or servant on account of that person, it is in that person’s possession within the meaning of this Code.

Explanation — A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

“Counterfeit”

28. A person is said to “counterfeit”, who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1 — It is not essential to counterfeiting that the imitation should be exact.

Explanation 2 — When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended, by means of that resemblance, to practise deception, or knew it to be likely that deception would thereby be practised.

“Document”

29. The word “document” denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1 — It is immaterial by what means, or upon what substance, the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power of attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2 — Whatever is expressed by means of letters, figures or marks, as explained by mercantile or other usage, is deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the indorsement as explained by mercantile usage, is that the bill is to be paid to the holder. The indorsement is a document and must be construed in the same manner as if the words “pay to the holder”, or words to that effect, had been written over the signature.

“Valuable security”

30. The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this indorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the indorsement is a "valuable security".

"A will"

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act" and "omission"

33. (1) The word "act" denotes as well a series of acts as a single act.

(2) The word "omission" denotes as well a series of omissions as a single omission.

Acts done by several persons in furtherance of common intention

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

When act is criminal by reason of its being done with criminal knowledge or intention

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes *Z*'s death, partly by illegally omitting to give *Z* food and partly by beating *Z*. *A* has committed murder.

Co-operation by doing one of several acts constituting offence

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly, or jointly with any other person, commits that offence.

Illustrations

(a) *A* and *B* agree to murder *Z* by severally, and at different times, giving him small doses of poison. *A* and *B* administer the poison according to the agreement with intent to murder *Z*. *Z* dies from the effects of the several doses of poison so administered to him. Here, *A* and *B* intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts separate.

(b) *A* and *B* are joint jailors, and as such, have the charge of *Z*, a prisoner, alternately for 6 hours at a time. *A* and *B*, intending to cause *Z*'s death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish *Z* with food supplied to them for that purpose. *Z* dies of hunger. Both *A* and *B* are guilty of the murder of *Z*.

(c) *A*, a jailor, has the charge of *Z*, a prisoner. *A*, intending to cause *Z*'s death, illegally omits to supply *Z* with food, in consequence of which *Z* is much reduced in strength, but the starvation is not sufficient to cause his death. *A* is dismissed from his office and *B* succeeds him. *B* without collusion or co-operation with *A*, illegally omits to supply *Z* with food knowing that he is likely thereby to cause *Z*'s death. *Z* dies of hunger. *B* is guilty of murder; but, as *A* did not co-operate with *B*, *A* is guilty only of an attempt to commit murder.

Person concerned in criminal act may be guilty of different offences

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks *Z* under such circumstances of grave provocation that his killing of *Z* would only be culpable homicide not amounting to murder. *B*, having ill-will towards *Z*, and intending to kill him and not having been subject to the provocation assists *A* in killing *Z*. Here, though *A* and *B* are both engaged in causing *Z*'s death, *B* is guilty of murder and *A* is guilty only of culpable homicide.

“Voluntarily”

39. A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, *A* may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

“Offence”

40. (1) Except in the Chapter and sections mentioned in subsections (2) and (3), the word “offence” denotes a thing made punishable by this Code.

(2) In Chapter IV and in sections 66, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “offence” denotes a thing punishable under this Code or under any other written law for the time being in force.

(3) In sections 141, 176, 177, 201, 202, 212, 216 and 441, “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of 6 months or more, whether with or without fine.

“Special law”

41. A “special law” is a law applicable to a particular subject.

“Local law”

42. A “local law” is a law applicable only to a particular part of Brunei Darussalam.

“Illegal”

43. The word “illegal” is applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action:

and a person is said to be “legally bound to do” whatever it is illegal in him to omit.

“Injury”

44. The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

“Life”

45. The word “life” denotes the life of a human being, unless the contrary appears from the context.

“Death”

46. The word “death” denotes the death of a human being, unless the contrary appears from the context.

“Animal”

47. The word “animal” denotes any living creature other than a human being.

“Vessel”

48. The word “vessel” denotes anything made for the conveyance by water of human beings or of property.

“Year, month”

49. Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

“Section”

50. The word “section” denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

“Oath”

51. The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

“Good faith”

52. Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.

CHAPTER III

PUNISHMENTS

Punishments

53. (1) The punishments to which offenders are liable under the provisions of this Code are —

(a) death;

(aa) imprisonment for life;

(b) imprisonment;

(c) forfeiture of property;

(d) fine;

(e) whipping, subject to the provisions of the Criminal Procedure Code (Chapter 7).

(2) Notwithstanding the provisions of any other written law, the words “imprisonment for life” means imprisonment for the remainder of the natural life of the person so sentenced.

54. *(No section).*

Commutation of sentence of imprisonment

55. In every case in which sentence of death, or of imprisonment for any period of not less than 7 years shall have been passed, the Minister* may without the consent of the person sentenced commute the punishment into temporary or perpetual deportation from Brunei Darussalam.

56. — 62. *(No sections).*

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1999 —
[S 37/1999]

Amount of fine

63. Where no sum is expressed to which a fine may extend, the amount of the fine to which the offender is liable is unlimited, but shall not be excessive.

64. — 70. (*No sections*).

Limit of punishment of offence made up of several offences

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such offences, unless it is so expressly provided.

Where anything is an offence falling within two or more separate definitions of any written law in force for the time being by which offences are defined or punished, or where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence, the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustrations

(a) *A* gives *Z* 50 strokes with a stick. Here, *A* may have committed the offence of voluntarily causing hurt to *Z* by the whole beating, and also by each of the blows which make up the whole beating. If *A* were liable to punishment for every blow, he might be imprisoned for 50 years, one for each blow; but he is liable only to one punishment for the whole beating.

(b) But if, while *A* is beating *Z*, *Y* interferes and *A* intentionally strikes *Y*. Here, as the blow given to *Y* is no part of the act whereby *A* voluntarily causes hurt to *Z*. *A* is liable to one punishment for voluntarily causing hurt to *Z* and to another for the blow given to *Y*.

Punishment of person guilty of one of several offences, judgment stating that it is doubtful of which

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

73. — 74. (*No sections*).

Punishment of persons convicted after previous conviction, of offence punishable with 3 years imprisonment

75. Whoever, having been convicted of an offence punishable under this Code with imprisonment for a term of 3 years or more, or having been convicted in the Federation of Malaysia or in the Republic of Singapore of an offence of a nature similar to any of those offences, is guilty of an offence punishable with imprisonment for a term of 3 years or more, shall be subject for every such subsequent offence to imprisonment for 10 years.

CHAPTER IV

GENERAL EXCEPTIONS

Act done by person bound, or by mistake of fact believing himself bound, by law

76. Nothing is an offence which is done by a person who is, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be bound by law to do it.

Illustrations

(a) *A*, a soldier, fires on a mob by the order of his superior officer in conformity with the commands of the law. *A* has committed no offence.

(b) *A*, an officer of a Court of Justice, being ordered by that Court to arrest *Y*, and after due inquiry believing *Z* to be *Y*, arrests *Z*. *A* has committed no offence.

Act of Judge when acting judicially

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be given to him by law.

Act done pursuant to judgment or order of Court

78. Nothing which is done in pursuance of, or which is warranted by, the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by person justified or by mistake of fact believing himself justified by law

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.

Illustration

A sees *Z* commit what appears to *A* to be a murder. *A*, in the exercise to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the act, seizes *Z* in order to bring *Z* before the proper authorities. *A* has committed no offence though it may turn out that *Z* was acting in self-defence.

Accident in doing lawful act

80. Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner by lawful means, and with proper care and caution.

Illustration

A is at work with a hatchet, the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of *A*, his act is excusable and not an offence.

Act likely to cause harm, but done without criminal intent and to prevent other harm

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it is done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation — It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature, and so imminent, as to justify or excuse the risk of doing the act with the knowledge it was likely to cause harm.

Illustrations

(a) *A*, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessels, he must inevitably run down a boat *B* with twenty or thirty passengers on board, unless he changes the course of his vessels, and that, by changing his course, he must incur risk of running down a boat *C* with only two passengers on board, which he may possibly clear. Here, if *A* alters his course without any intention to run down the boat *C* and in good faith for the purpose of avoiding

the danger to the passenger in the boat *B*, he is not guilty of an offence, though he may run down the boat *C* by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down *C*.

(*b*) *A*, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse *A*'s act, *A* is not guilty of an offence.

Act of child under 7

82. Nothing is an offence which is done by a child under the age of 7 years.

Act of child above 7 and under 12 of immature understanding

83. Nothing is an offence which is done by a child above the age of 7 years and under the age of 12 years, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion.

Act of person of unsound mind

84. Nothing is an offence which is done by a person who, at the time of doing it by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Intoxication when defence

85. (1) Save as provided in this section and in section 86, intoxication shall not constitute a defence to any criminal charge.

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and —

(*a*) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or

(*b*) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

Effect of defence of intoxication when established

86. (1) Where the defence under section 85(2) is established, then in a case falling under paragraph (a) thereof, the accused person shall be acquitted, and in a case falling under paragraph (b) thereof, the provisions of section 84 and of sections 319 and 320 of the Criminal Procedure Code (Chapter 7) apply.

(2) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence.

(3) For the purpose of this and section 85, “intoxication” is deemed to include a state produced by narcotics or drugs.

Act not intended, and not known to be likely, to cause death or grievous hurt, done by consent

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above the age of 18 years, who has given consent whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and *Z* agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing may be caused without foul-play; and if *A*, while playing fairly, hurts *Z*, *A* commits no offence.

Act not intended to cause death, done by consent in good faith for person’s benefit

88. Nothing, which is not intended to cause death, is an offence by reason of any harm, which it may cause or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of *Z*, who suffers under a painful complaint, but not intending to cause *Z*'s death and intending, in good faith, *Z*'s benefit, performs that operation on *Z* with *Z*'s consent. *A* has committed no offence.

Act done in good faith for benefit of child or insane person, by or by consent of guardian

89. Nothing which is done in good faith for the benefit of a person under the age of 12 years or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person:

Provided that this exception does not extend to —

(a) the intentional causing of death or to the attempting to cause death;

(b) the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

(c) the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

(d) the abetment of any offence, to the committing of which offence it would not extend.

Illustration

A, in good faith for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. *A* is within the exception inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception and consent of child or person of unsound mind

90. A consent is not such a consent as is intended by any section of this Code if —

(a) the consent is given by a person under fear of injury or under a misconception of fact; and

(b) the person doing the act knows, or has reason to believe, that —

- (i) the consent was given in consequence of such fear or misconception;
- (ii) the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or
- (iii) unless the contrary appears from the context, the consent is given by a person who is under the age of 12 years.

Exclusion of acts which are offences independently of harm caused

91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause, or be intended to cause, to the woman. Therefore, it is not an “offence by reason of such harm”, and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for benefit of person without consent

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person’s consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no

guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

Provided that this exception does not extend to —

(a) the intentional causing of death or the attempting to cause death;

(b) the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity;

(c) the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

(d) the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

(a) *Z* is thrown from his horse, and is insensible. *A*, a surgeon, finds that *Z* requires to be trepanned. *A*, not intending *Z*'s death, but in good faith, for *Z*'s benefit, performs the trepan before *Z* recovers his power of judging for himself. *A* has committed no offence.

(b) *Z* is carried off by a crocodile. *A* fires at the crocodile knowing it to be likely that the shot may kill *Z*, but not intending to kill *Z*, and in good faith intending *Z*'s benefit. *A*'s shot gives *Z* a mortal wound. *A* has committed no offence.

(c) *A*, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. *A* performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. *A* has committed no offence.

(d) *A* is in a house which is on fire, with *Z*, a child. People below hold a blanket. *A* drops the child from the house-top, knowing it to be likely that the fall may kill the child but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, *A* has committed no offence.

Explanation — Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

Communication made in good faith

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made if it is made for the benefit of that person.

Illustration

A, a surgeon, in good faith, communicates to a patient in his opinion that he cannot live. The patient dies in consequence of the shock. *A* has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which person is compelled by threats

94. Except murder and offences under section 121, punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence:

Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1 — A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of robbers, knowing their character, is not entitled to the benefit of this exception on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2 — A person seized by a gang of robbers, and forced, by threat of instant death, to do a thing which is an offence by law — for example, a smith compelled to take his tools and to force the door of a house for the gang-robbers to enter plunder it — is entitled to the benefit of this exception.

Act causing slight harm

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

*Right of private defence***Things done in private defence**

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of body and of property

97. Every person has a right, subject to the restrictions contained in section 99, to defend —

(a) his own body, and the body of any other person, against any offence affecting the human body;

(b) the property, whether movable or immovable, of himself or of any other person against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Right of private defence against act of person of unsound mind etc.

98. When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A. Z is guilty of no offence; but A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here, Z, by attacking A under this misconception, commits no offence; but A has the same right to private defence against Z, which he would have if Z were not acting under this misconception.

Acts against which there is no right of private defence and extent to which right may be exercised

99. (1) There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

(2) There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good

faith under colour of his office, though that direction may not be strictly justifiable by law.

(3) There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

(4) The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1 — A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, as such, unless he knows or has reason to believe that the person doing the act is such public servant.

Explanation 2 — A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant unless he knows or has reason to believe that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority if demanded.

When right of private defence of body extends to causing death

100. The right of private defence of the body extends, under the restrictions mentioned in section 99, to the voluntary causing of death, or of any other harm, to the assailant if the offence which occasions the exercise of the right is of any of the following descriptions —

(a) such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of the assault;

(b) such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of the assault;

(c) an assault with the intention of committing rape;

(d) an assault with the intention of gratifying unnatural lust;

(e) an assault with the intention of kidnapping or abducting;

(f) an assault with the intention of wrongfully confining a person under circumstances which may reasonably cause him to

apprehend that he will be unable to have recourse to the public authorities for his release.

When right of private defence extends to causing any harm other than death

101. If the offence is not of any of the descriptions enumerated in section 100, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of right of private defence of body

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed and it continues as long as such apprehension of danger to the body continues.

When right of private defence of body extends to causing death

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death, or of any other harm to the wrongdoer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right is an offence of any of the following descriptions —

(a) robbery;

(b) house-breaking by night;

(c) mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

(d) theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When right of private defence extends to causing any harm other than death

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence is theft, mischief or criminal trespass, not of any of the descriptions mentioned in section 103, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrongdoer of any harm other than death.

Commencement and continuance of right of private defence of property

105. (1) The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

(2) The right of private defence of property against theft continues until the offender has effected his retreat with the property or either the assistance of the public authorities is obtained or the property has been recovered.

(3) The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death, hurt or wrongful restraint, or as long as the fear of instant death or of instant personal restraint continues.

(4) The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

(5) The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by the house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death the defender is so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob and he cannot fire without risk of harming young children who are mingled with the mob. *A* commits no offence if by so firing he harms any of the children.

CHAPTER V

ABETMENT

Abetment of thing

107. A person abets the doing of a thing who —

(a) instigates any person to do that thing;

(b) engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing; or

(c) intentionally aids, by any act or illegal omissions, the doing of that thing.

Explanation 1 — A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to “instigate” the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend *Z*. *B*, knowing that fact, and also that *C* is not *Z*, wilfully represents to *A* that *C* is *Z* and thereby intentionally causes *A* to apprehend *C*. Here, *B* abets by instigation the apprehension of *C*.

Explanation 2 — Whoever, either prior to, or at the time of, the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to “aid” the doing of that act.

Abettor

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence if committed

by a person capable by law of committing an offence, with the same intention or knowledge as that of the abettor.

Explanation 1 — The abetment of the illegal omission of an act may account to an offence although the abettor may not himself be bound to do that act.

Explanation 2 — To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) *A* instigates *B* to murder *C*. *B* refuses to do so. *A* is guilty of abetting *B* to commit murder.

(b) *A* instigates *B* to murder *D*. *B* in pursuance of the instigation stabs *D*. *D* recovers from the wound. *A* is guilty of instigating *B* to commit murder.

Explanation 3 — It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) *A*, with a guilty intention, abets a child or a mentally disordered person to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as *A*. Here, *A*, whether the act is committed or not, is guilty of abetting an offence.

[S 25/2014]

(b) *A*, with the intention of murdering *Z* instigates *B*, a child under the age of 7 years, to do an act which causes *Z*'s death. *B*, in consequence of the abetment, does the act in the absence of *A* and thereby causes *Z*'s death. Here, though *B* was not capable by law of committing an offence, *A*, is liable to be punished in the same manner as if *B* had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) *A* instigates *B* to set fire to a dwelling-house. *B*, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of *A*'s instigation. *B* has committed no offence, but *A* is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for the offence.

(d) *A*, intending to cause theft to be committed, instigates *B* to take property belonging to *Z* out of *Z*'s possession. *A* induces *B* to believe that the property belongs to *A*. *B* takes the property out of *Z*'s possession, in good faith, believing it to be *A*'s property. *B*, acting under

this misconception, does not take dishonestly and therefore does not commit theft; but *A* is guilty of abetting theft and is liable to the same punishment as if *B* had committed theft.

Explanation 4 — The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates *B* to instigate *C* to murder *Z*. *B* accordingly instigates *C* to murder *Z* and *C* commits that offence in consequence of *B*'s instigation. *B* is liable to be punished for his offence with the punishment for murder; and, as *A* instigates *B* to commit the offence, *A* is also liable to the same punishment.

Explanation 5 — It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A consents with *B* a plan for poisoning *Z*. It is agreed that *A* shall administer the poison. *B* then explains the plan to *C*, mentioning that a third person is to administer the poison, but without mentioning *A*'s name. *C* agrees to procure the poison, and procures and delivers it to *B* for the purpose of its being used in the manner explained. *A* administers the poison. *Z* dies in consequence. Here, though *A* and *C* have not conspired together, yet *C* has been engaged in the conspiracy in pursuance of which *Z* has been murdered. *C* has therefore committed the offence defined in this section and is liable to the punishment for murder.

Abetment in Brunei Darussalam of offences outside it

108A. A person abets an offence, within the meaning of this Code, who —

(a) within Brunei Darussalam, abets the commission of any act outside Brunei Darussalam; or

(b) outside Brunei Darussalam, abets the commission of any act within Brunei Darussalam if the act would constitute an offence if committed in Brunei Darussalam.

Illustration

A, in Brunei Darussalam, instigates *B*, a foreigner in Singapore, to commit a murder in Singapore. *A* is guilty of abetting murder.

Punishment of abetment if act abetted is committed in consequence and where no express provision is made for its punishment

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation — An act or offence is said to be committed in consequence of abetment when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) *A* offers a bribe to *B*, a public servant as a reward for showing *A* some favour in the exercise of *B*'s official functions. *B* accepts the bribe. *A* has abetted the offence defined in section 161.

(b) *A* instigates *B* to give false evidence. *B*, in consequence of the instigation commits that offence. *A* is guilty of abetting that offence and is liable to the same punishment as *B*.

(c) *A* and *B* conspire to poison *Z*. *A*, in pursuance of the conspiracy procures the poison and delivers it to *B* in order that he may administer it to *Z*. *B*, in pursuance of the conspiracy administers the poison to *Z* in *A*'s absence and thereby causes *Z*'s death. Here, *B* is guilty of murder. *A* is guilty of abetting that offence by conspiracy and is liable to the punishment for murder.

Punishment of abetment if person abetted does act with different intention from that of abettor

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted and different act done

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Provided that the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) *A* instigates a child to put poison into the food of *Z* and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of *Y*, which is by the side of that of *Z*. Here, if the child was acting under the influence of *A*'s instigation and the act done was under the circumstances a probable consequence of the abetment, *A* is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of *Y*.

(b) *A* instigates *B* to burn *Z*'s house. *B* sets fire to the house and at the same time commits theft of property there. *A*, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act and not a probable consequence of the burning.

(c) *A* instigates *B* and *C* to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. *B* and *C* break into the house, and being resisted by *Z*, one of the inmates, murder *Z*. Here, if that murder was the probable consequence of the abetment, *A* is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done

112. If the act for which the abettor is liable under section 111 is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates *B* to resist by force a distress made by a public servant. *B*, in consequence, resists that distress. In offering the resistance, *B* voluntarily causes grievous hurt to the officer executing the distress. As *B* has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, *B* is liable to punishment for both these offences; and if *A* knew that *B* was likely voluntarily to cause grievous hurt in resisting the distress, *A* will also be liable to punishment for each of the offences.

Liability of abettor for effect caused by act abetted different from that intended by abettors

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates *B* to cause grievous hurt to *Z*. *B*, in consequence of the instigation, causes grievous hurt to *Z*. *Z* dies in consequence. Here, if *A* knew that the grievous hurt abetted was likely to cause death, *A* is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed

114. Whenever any person, who if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he is deemed to have committed the act or offence.

Abetment of offence punishable with death or imprisonment for 15 years

115. Whoever abets the commission of an offence punishable with death or imprisonment for 15 years, shall, if that offence is not committed in consequence of the abetment and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment for a term not exceeding 7 years and fine.

If any act for which the abettor is liable in consequence of the abetment and which causes hurt to any person, is done, the abettor shall be punished with imprisonment for a term not exceeding 14 years and fine.

Illustration

A instigates *B* to murder *Z*. The offence is not committed. If *B* had murdered *Z*, he would have been subject to the punishment of death. Therefore *A* is liable to imprisonment for a term not exceeding 7 years and also to fine; and if any hurt is done to *Z* in consequence of the abetment, he will be liable to imprisonment for a term not exceeding 14 years and to fine.

Abetment of offence punishable with imprisonment if offence is not committed

116. Whoever abets an offence punishable with imprisonment shall, if that offence is not committed in consequence of the abetment and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment for a term not exceeding one-fourth part of the longest term provided for that offence, fine as is provided for that offence or both.

And if the abettor or the person abetted is a public servant, whose duty is to prevent the commission of such offence, the abettor shall be punished with

imprisonment for a term not exceeding one-half of the longest term provided for that offence fine as is provided for the offence or both.

Illustrations

(a) *A* offers a bribe to *B*, a public servant, as a reward for showing *A* some favour in the exercise of *B*'s official functions. *B* refuses to accept the bribe. *A* is punishable under this section.

(b) *A* instigates *B* to give false evidence. Here, if *B* does not give false evidence, *A* has nevertheless committed the offence defined in this section and is punishable accordingly.

(c) *A*, a police officer, whose duty is to prevent robbery, abets the commission of robbery. Here, though the robbery is not committed, *A* is liable to one-half of the longest term of imprisonment provided for that offence and also to fine.

(d) *B* abets the commission of a robbery by *A*, a police officer, whose duty it is to prevent that offence. Here, though the robbery is committed, *B* is liable to one-half of the longest term of imprisonment provided for the offence of robbery and also to fine.

Abetting commission of offence by public or by more than ten persons

117. Whoever abets the commission of any offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Illustration

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. *A* has committed the offence defined in this section.

Concealing design to commit offence punishable with death or imprisonment

118. Whoever intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence punishable with death or imprisonment for 15 years, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall —

(a) if that offence is committed, be punished with imprisonment for a term not exceeding 7 years; or

(b) if the offence is not committed, to imprisonment for a term not exceeding 3 years,

and in either case, shall also be liable to fine.

Illustration

A, knowing that a gang-robbery is about to be committed at *B*, falsely informs the Magistrate that a gang-robbery is about to be committed at *C*, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The gang-robbery is committed at *B* in pursuance of the design. *A* is punishable under this section.

Public servant concealing design to commit offence which it is his duty to prevent

119. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit the offence, or makes any representation which he knows to be false respecting such design, shall —

(a) if the offence is committed, be punished —

- (i) with imprisonment for a term not exceeding one-half of the longest term of such imprisonment, fine as is provided for that offence or both; or
- (ii) if the offence is punishable with death or imprisonment for 15 years, with imprisonment for a term which may extend to 10 years; or

(b) if the offence is not committed, be punished with imprisonment of any description provided for the offence for a term not exceeding one-fourth part of the longest term of such imprisonment, fine as is provided for the offence or both.

Illustration

A, a police officer being legally bound to give information of all designs to commit robbery which may come to his knowledge and knowing that *B* designs to commit robbery, omits to give such information with intent to facilitate the commission of that offence. Here, *A*, has by an illegal omission concealed the existence of *B*'s design and is liable to punishment according to the provisions of this section.

Concealing design to commit offence punishable with imprisonment

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit the offence, or makes any representation which he knows, to be false respecting such design, shall —

(a) if the offence is committed, be punished with imprisonment for a term not exceeding one-fourth; and

(b) if the offence is not committed, to one-eighth of the longest term of such imprisonment, fine as is provided for the offence or both.

CHAPTER VA

CRIMINAL CONSPIRACY

Definition of criminal conspiracy

120A. When two or more persons agree to do or cause to be done —

(a) an illegal act; or

(b) an act which is not illegal by illegal means,

such an agreement is designated a “criminal conspiracy”:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to the agreement in pursuance thereof.

Explanation — It is immaterial whether the illegal act is the ultimate object of the agreement, or is merely incidental to that object.

Punishment of criminal conspiracy

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, or imprisonment for a term of 2 years or more, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted the offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment for 10 years and fine.

CHAPTER VI

OFFENCES AGAINST STATE

Waging or attempting to wage war, or abetting waging of war, against His Majesty the Sultan and Yang Di-Pertuan

121. Whoever wages war against His Majesty the Sultan and Yang Di-Pertuan or attempts to wage such war, or abets the waging of such war, shall be punished with death or imprisonment for life.

Illustration

A joins an insurrection against His Majesty the Sultan and Yang Di-Pertuan. A has committed the offence defined in this section.

Conspiracy to commit offences punishable by section 121

121A. Whoever, within or outside Brunei Darussalam, conspires to commit any of the offences punishable by section 121, or to deprive His Majesty the Sultan and Yang Di-Pertuan of the sovereignty of Brunei Darussalam, or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government, shall be punished with imprisonment for life.

Explanation — To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

Collecting arms etc. with intention of waging war against His Majesty the Sultan and Yang Di-Pertuan

122. Whoever collects men, arms or ammunition or otherwise prepares to wage war, with the intention of either waging, or being prepared to wage, war against His Majesty the Sultan and Yang Di-Pertuan, shall be punished with imprisonment for a term not exceeding 15 years and fine.

Concealing with intent to facilitate design to wage war

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against His Majesty the Sultan and Yang Di-Pertuan, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment for a term not exceeding 10 years and fine.

124. — 124A. (*No sections*).

125. — 130. (*No sections*).

CHAPTER VII

OFFENCES RELATING TO ARMY, NAVY, AIR FORCE
AND POLICE**Abetment of mutiny to induce soldier etc. from his duty**

131. Whoever abets the committing of mutiny by an officer or constable in the Royal Brunei Police Force or by an officer, soldier, sailor or airman in the armed forces of His Majesty the Sultan and Yang Di-Pertuan, or attempts to seduce any such person from his allegiance or his duty shall be punished with imprisonment for a term not exceeding 15 years and fine.

Explanation — In this section, “officer” includes a commissioned, a non-commissioned and a warrant officer.

Abetment of mutiny, if mutiny is committed in consequence thereof

132. Whoever abets the committing of mutiny by any of the persons mentioned in section 131 shall, if mutiny is committed in consequence of that abetment, be punished with death, or imprisonment for a term not exceeding 15 years and fine.

Abetment of assault by soldiers etc. on his superior officer in execution of his office

133. Whoever abets an assault by any of the persons mentioned in section 131 on any superior officer being in the execution of his office shall be punished with imprisonment for a term not exceeding 3 years and fine.

Abetment of assault if assault is committed

134. Whoever abets an assault by any of the persons mentioned in section 131 on any superior officer being in the execution of his office shall, if the assault is committed in consequence of that abetment, be punished with imprisonment for a term not exceeding 7 years and fine.

Abetment of desertion

135. Whoever abets the desertion of any of the persons mentioned in section 131 shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Harbouring deserter

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that any of the persons mentioned in section 131 has deserted, harbours such person, shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Exception — This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant vessel through negligence of master

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Royal Brunei Police Force or from the armed forces of His Majesty the Sultan and Yang Di-Pertuan is concealed, shall though ignorant of such concealment, be liable to a penalty of \$4,000, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by soldier etc.

138. Whoever abets what he knows to be an act of insubordination by any of the persons mentioned in section 131 shall, if the act of insubordination is committed in consequence of that abetment, be punished with imprisonment for a term not exceeding 6 months, fine or both.

139. *(No section).*

Wearing garb or carrying token used by soldier etc.

140. Whoever —

(a) not being an officer or constable in the Royal Brunei Police Force, wears any garb or carries any token used by such an officer or constable; or

(b) not being an officer, or a soldier, sailor or airman in the armed forces of His Majesty the Sultan and Yang Di-Pertuan, wears any garb or carries any token resembling any garb or token used by such an officer or constable, or by such an officer or soldier, sailor or airman, as the case may be,

with the intention that it may be believed that he is such an officer or constable, or such an officer or soldier, sailor or airman, as the case may be, shall be punished with imprisonment for a term not exceeding 3 months, fine not exceeding \$4,000 or both.

CHAPTER VIII

OFFENCES AGAINST PUBLIC TRANQUILLITY

Unlawful assembly

141. An assembly of five or more persons is designated an “unlawful assembly” if the common object of the persons composing that assembly is —

(a) to overawe, by criminal force or show of criminal force, the Government of Brunei Darussalam or any public servant in the exercise of the lawful power of such public servant;

(b) to resist the execution of any law or of any legal process;

(c) to commit any mischief, criminal trespass or other offence;

(d) by means of criminal force, or show of criminal force to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(e) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation — An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Member of unlawful assembly

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment for a term not exceeding one year and fine.

Joining unlawful assembly armed with deadly weapon

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Joining or continuing in unlawful assembly, knowing it has been commanded to disperse

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Rioting

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting

147. Whoever is guilty of rioting shall be punished with imprisonment for a term which may extend to 5 years and fine.

Rioting, armed with deadly weapon

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Every member of unlawful assembly guilty of offence committed in prosecution of common object

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Hiring, or conniving at hiring, of persons to join unlawful assembly

150. Whoever hires, engages, employs, promotes or connives at, the hiring, engagement or employment of any person to join or become a member of any unlawful assembly shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in five or more persons after it has been commanded to disperse

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace after such assembly has been lawfully commanded to disperse shall be punished with imprisonment for a term not exceeding 6 months, fine or both.

Explanation — If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

Assaulting or obstructing public servant when suppressing riot etc.

152. Whoever —

(a) assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray; or

(b) uses, or threatens or attempts to use, criminal force to such public servant,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Wantonly giving provocation with intent to cause riot

153. Whoever malignantly or wantonly by doing anything which is illegal gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall —

(a) if the offence of rioting is committed in consequence of such provocation, be punished with imprisonment for a term not exceeding 3 years, fine or both; and

(b) if the offence of rioting is not committed, with imprisonment for a term not exceeding one year, fine or both.

Promoting enmity between classes

153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of His Majesty the Sultan and Yang Di-Pertuan's subjects in Brunei Darussalam shall be punished with imprisonment for a term not exceeding 5 years and fine.

Explanation — It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty the Sultan and Yang Di-Pertuan's subjects in Brunei Darussalam.

Owner or occupier of land on which unlawful assembly is held

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any such person having or claiming an interest in such land, shall be punished with fine not exceeding \$4,000 if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not —

(a) give the earliest notice thereof in his or their power to the principal officer at the nearest police station;

(b) in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it; and

(c) in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the unlawful assembly or riot.

Liability of persons for whose benefit riot is committed

155. Whenever a riot is committed for the benefit, or on behalf, of any person who —

(a) is the owner or occupier of any land in respect of which such riot takes place;

(b) claims any interest in such land, or in the subject of any dispute which gave rise to the riot; or

(c) has accepted or derived any benefit therefrom,

such person shall be punished with fine if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed

156. Whenever a riot is committed for the benefit, or on behalf, of any person who is the owner or occupier of any land in respect of which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his

power to prevent such riot or assembly from taking place, and for suppressing and dispersing the same.

Harbouring persons hired for unlawful assembly

157. Whoever harbours, receives or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged or employed, to join, or become members of, an unlawful assembly, shall be punished with imprisonment for a term not exceeding 6 months, fine or both.

Hired to take part in unlawful assembly or riot or to go armed

158. (1) Whoever is engaged or hired, or offers or attempts to be engaged or hired, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment for a term not exceeding 6 months, fine or both.

(2) Whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Affray

159. When two or more persons by fighting in a public place disturb the public peace, they are said to “commit an affray”.

Punishment for committing affray

160. Whoever commits an affray shall be punished with imprisonment for a term not exceeding 3 years and fine.

CHAPTER IX

OFFENCES BY OR RELATING TO PUBLIC SERVANTS

Public servant taking gratification other than legal remuneration in respect of official act

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for —

- (a) doing or forbearing to do any official act;
- (b) showing or forbearing to show in the exercise of his official functions, favour or disfavour to any person; or
- (c) rendering or attempting to render any service or disservice to any person, with Government, or with any public servant, as such,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Explanation — “Expecting to be a public servant” — If a person, not expecting to be in office, obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification” — The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration” — The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

“A motive or reward for doing” — A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations

(a) *A*, a Judge, obtains from *Z*, a banker, a situation in *Z*'s bank for *A*'s brother, as a reward to *A* for deciding a cause in favour of *Z*. *A* has committed the offence defined in this section.

(b) *A*, a public servant, induces *Z* erroneously to believe that *A*'s influence with a Government officer has obtained for *Z* a contract to do work, and thus induces *Z* to give *A* money. *A* has committed the offence defined in this section.

(c) *A*, a public servant, induces *Z* erroneously to believe that *A*'s influence with the Government has obtained a grant of land for *Z*, and thus induces *Z* to give *A* money as a reward for his service. *A* has committed the offence defined in this section.

Taking gratification, by corrupt or illegal means, to influence public servant

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means —

(a) any public servant to do or to forbear to do any official act;
or

(b) in the exercise of the official functions of such public servant —

(i) to show favour or disfavour to any person; or

(ii) to render or attempt to render any service or disservice to any person with the Government, or with any public servant, as such,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Taking gratification by personal influence with public servant

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence —

(a) any public servant to do or to forbear to do any official act;
or

(b) in the exercise of the official functions of such public servant —

(i) to show favour or disfavour to any person; or

(ii) to render or attempt to render any service or disservice to any person with the Government, or with any public servant, as such,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Illustration

A person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist, or a paid agent for a condemned criminal who lays before the Government statements tending to show that the condemnation was unjust, are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of offences defined in section 162 or 163

164. Whoever, being a public servant, in respect of whom either of the offences defined in sections 162 and 163 is committed, abets the offence, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Illustration

A is a public servant. *B*, *A*'s wife, receives a present as a motive for soliciting *A* to give an office to a particular person. *A* abets her doing so. *B* is punishable with imprisonment for a term not exceeding one year, or fine, or both. *A* is punishable with imprisonment for a term not exceeding 3 years, or fine, or both.

Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by public servant

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows —

(a) to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate; or

(b) to be interested in or related to the person so concerned,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Illustrations

(a) *A*, a Judge, hires a house of *Z*, who has a settlement case pending before him. It is agreed that *A* shall pay \$50 a month, the house being such that, if the bargain were made in good faith, *A* would be required to pay \$2000 a month. *A* has obtained a valuable thing from *Z* without adequate consideration.

(b) *A*, a Judge, buys of *Z*, who has a cause pending in *A*'s court, Government promissory notes at a discount, when they are selling in the market at a premium. *A* has obtained a valuable thing from *Z* without adequate consideration.

(c) *Z*'s brother is apprehended and taken before *A*, a Magistrate, on a charge of perjury. *A* sells to *Z* shares in a bank at a premium, when they are selling in the market at a discount. *Z* pays *A* for the shares accordingly. The money so obtained by *A* is a valuable thing obtained by him without adequate consideration.

Public servant disobeying law with intent to cause injury to person

166. Whoever, being a public servant knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person shall be punished with imprisonment for a term not exceeding 3 years and fine.

Illustration

A, being an officer directed by law to take property in execution in order to satisfy a decree pronounced in *Z*'s favour by a Court of Justice, knowingly disobeys that direction of law with the knowledge that he is likely thereby to cause injury to *Z*. *A* has committed the offence defined in this section.

Public servant framing incorrect document with intent to cause injury

167. Whoever, being a public servant, and being as such public servant charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Public servant unlawfully engaging in trade

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Public servant unlawfully buying or bidding for property

169. Whoever, being a public servant, and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another or jointly or in shares with others, shall be punished with imprisonment for a term not exceeding 7 years and fine; and the property if purchased, may be confiscated.

Personating public servant

170. Whoever pretends to hold any particular office as a public servant, knowingly that he does not hold such office, or falsely personates any other person holding such office, and, in such assumed character, does or attempts to do, any act under colour of such office, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Wearing garb or carrying token used by public servant with fraudulent intent

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment for a term not exceeding 3 years and fine.

CHAPTER X

CONTEMPTS OF LAWFUL AUTHORITY OF PUBLIC SERVANTS

Absconding to avoid service of summons, notice or order proceedings

172. Whoever absconds in order to avoid being served with a summons, notice or order, proceedings from any public servant legally competent as such public servant to issue such summons, notice or order, shall be punished —

(a) with imprisonment for a term not exceeding one year and fine; or

(b) if the summons, notice or order is to attend in person or by agent or to produce a document, in a Court of Justice, with imprisonment for a term not exceeding 3 years and fine.

Preventing service of summons or other proceeding or preventing publication thereof

173. Whoever, in any manner, intentionally —

(a) prevents the serving on himself or on any other person, of any summons, notice or order, proceedings from any public servant legally competent, as such public servant, to issue such summons, notice or order;

(b) prevents the lawful affixing to any place of any such summons, notice or order;

(c) removes any such summons, notice or order from any place to which it is lawfully affixed; or

(d) prevents the lawful making of any proclamation under the authority of any public servant, legally competent as such public servant to direct such proclamation to be made,

shall be punished —

- (i) with imprisonment for a term not exceeding one year and fine; or
- (ii) if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document, in a Court of Justice, with imprisonment for a term not exceeding 3 years and fine.

Non-attendance in obedience to order from public servant

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation, proceedings from a public servant legally competent as such public servant to issue the same intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished —

(a) with imprisonment for a term not exceeding one year and fine; or

(b) if the summons, notice, order, or proclamation is to attend in person or by agent, in a Court of Justice, with imprisonment for a term not exceeding 3 years and fine.

Illustrations

(a) *A*, being legally bound to appear before the Supreme Court in obedience to a subpoena issuing from that Court, intentionally omits to appear. *A* has committed the offence defined in this section.

(b) *A*, being legally bound to appear before a Magistrate as a witness in obedience to a summons issued by that Magistrate, intentionally omits to appear. *A* has committed the offence defined in this section.

Omission to produce document to public servant by person legally bound to produce it

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished —

(a) with imprisonment for a term not exceeding one month, fine not exceeding \$2,000 or both; or

(b) if the document is to be produced or delivered up to a Court of Justice, with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Illustration

A, being legally bound to produce a document before a Court intentionally omits to produce the same. *A* has committed the offence defined in this section.

Omission to give notice or information to public servant by person legally bound to give it

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished —

(a) with imprisonment for a term not exceeding one month, fine not exceeding \$2,000 or both; or

(b) if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Furnishing false information

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished —

(a) with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both; or

(b) if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment for a term not exceeding 2 years, fine or both.

Illustrations

(a) *A*, a landholder, knowing of the commission of a murder within the limits of his estates, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. *A* is guilty of the offence defined in this section.

(b) *A*, a police officer, knowing that a considerable body of strangers has passed through his village in order to commit a gang-robbery in the house of *Z* a wealthy merchant residing in a neighbouring place, and being bound to give information of the above fact to his superior officer, wilfully misinforms that officer that a body of suspicious characters passed through the village with a view to commit gang-robbery in a certain distant place in a different direction. Here, *A* is guilty of the offence in the latter part of this section.

Explanation — In section 176 and in this section, the word “offence” includes any act committed at any place outside Brunei Darussalam, which, if committed in Brunei Darussalam, would be punishable under sections 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460, and the word “offender” includes any person who is alleged to have been guilty of any such act.

Refusing oath when duly required to take oath by public servant

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant legally competent to require

that he shall so bind himself is liable on conviction to imprisonment for term not exceeding 6 months, fine not exceeding \$4,000 or both.

Refusing to answer public servant authorised to question

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise of the legal powers of such public servant, shall be punished with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Refusing to sign statement

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with imprisonment for a term not exceeding 3 months, fine not exceeding \$2,000 or both.

False statement on oath or affirmation to public servant or person authorised to administer on oath or affirmation

181. Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorised by law to administer such oath or affirmation —

(a) makes to such public servant or other person, touching that subject, any statement which is false; and

(b) which he either knows or believes to be false or does not believe to be true,

shall be punished with imprisonment for a term not exceeding 3 years and fine.

False information with intent to cause public servant to use his lawful power to injury of another person

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing to be likely that he will thereby cause, such public servant to —

(a) do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him; or

(b) use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Illustrations

(a) *A* informs a Magistrate that *Z*, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, or knowing it to be likely that the information will cause the Magistrate to dismiss *Z*. *A* has committed the offence defined in this section.

(b) *A* falsely informs a public servant that *Z* has contraband salt in a secret place knowing such information to be false and knowing that it is likely that the consequence of the information will be a search of *Z*'s premises with attendant annoyance to *Z*. *A* has committed the offence defined in this section.

(c) *A* falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that, in consequence of this information the police will make inquiries and institute searches in the village to the annoyance of the villagers or some of them. *A* has committed an offence under this section.

Resistance to taking of property by lawful authority of public servant

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such servant shall be punished with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Obstructing sale of property offered for sale by authority of public servant

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment for a term not exceeding one month, fine not exceeding \$2,000 or both.

Illegal purchase or bid for property offered for sale by authority of public servant

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such —

(a) purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale; or

(b) bids for such property not intending to perform the obligations under which he lays himself by such bidding,

shall be punished with imprisonment for a term not exceeding one month, fine not exceeding \$800 or both.

Obstructing public servant in discharge of public functions

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment for a term not exceeding 3 months, fine not exceeding \$2,000 or both.

Omission to assist public servant when bound by law to give assistance

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with imprisonment for a term not exceeding one month, fine not exceeding \$800 or both.

If such assistance is demanded of him by a public servant legally competent to make such demand for the purposes of —

(a) executing any process lawfully issued by a Court of Justice;

(b) preventing the commission of an offence;

(c) suppressing a riot or affray; or

(d) apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody,

he shall be punished with imprisonment for a term not exceeding 6 months, fine not exceeding \$4,000 or both.

Disobedience to order duly promulgated by public servant

188. Whoever, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from

a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall —

(a) if such disobedience causes or tends to cause obstruction, annoyance or injury to any persons lawfully employed, be punished with imprisonment for a term not exceeding one month, fine not exceeding to \$800 or both; and

(b) if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment for a term not exceeding 6 months, fine not exceeding to \$4,000 or both.

Explanation — It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces or is likely to produce harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order directing that a religious procession shall not pass down a certain street. *A* knowingly disobeys the order and thereby causes danger of riot. *A* has committed an offence defined in this section.

Threat of injury to public servant

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Threat of injury to induce person to refrain from applying for protection to public servant

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment for a term not exceeding 3 years and fine.

CHAPTER XI

FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Giving false evidence

191. Whoever, being legally bound by an oath, or by any express provision of law, to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to “give false evidence”.

Explanation 1 — A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2 — A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

(a) *A*, in support of a just claim which *B* has against *Z* for \$1,000, falsely swears on a trial that he heard *Z* admitted the justice of *B*'s claim. *A* has given false evidence.

(b) *A*, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of *Z* when he does not believe it to be the handwriting of *Z*. Here, *A* states that which he knows to be false, and therefore, gives false evidence.

(c) *A*, knowing the general character of *Z*'s handwriting, states that he believes a certain signature to be the handwriting of *Z*, *A*, in good faith, believing it to be so. Here, *A*'s statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of *Z*, *A* has not given false evidence.

(d) *A*, being bound by an oath to state the truth, states that he knows that *Z* was at a particular place on a particular day, not knowing anything upon the subject. *A* gives false evidence whether *Z* was at that place on the day named or not.

(e) *A*, an interpreter or translator gives or certifies as a true interpretation or translation of a statement or document which he bound by oath to interpret or translate truly, that which is not, and which he does not believe to be, true interpretation or translation. *A* has given false evidence.

Fabricating false evidence

192. Whoever causes any circumstances to exist, or makes any false entry in any book or record, or makes any document containing a false statement —

(a) intending that such circumstances, false entry or false statement may appear in evidence in judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator; and

(b) that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who, in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding,

is said to “fabricate false evidence”.

Illustrations

(a) *A* puts jewels into a box belonging to *Z*, with the intention that they may be found in that box and that this circumstance may cause *Z* to be convicted of theft. *A* has fabricated false evidence.

(b) *A* makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. *A* has fabricated false evidence.

(c) *A*, with the intention of causing *Z* to be convicted of a criminal conspiracy, writes a letter in imitation of *Z*'s handwriting purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a place which he knows that the police officers are likely to search. *A* has fabricated false evidence.

Punishment for false evidence

193. Whoever intentionally —

(a) gives false evidence in any stage of a judicial proceeding; or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment for a term not exceeding 7 years and fine; and

(b) gives or fabricates false evidence in any other case, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Explanation 1 — A trial before Court-martial is a judicial proceeding.

Explanation 2 — An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an inquiry before a Magistrate for the purpose of ascertaining whether *Z* ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, *A* has given false evidence.

Explanation 3 — An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an inquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, *A* has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of capital offence

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code shall be punished with imprisonment for a term not exceeding 15 years and fine.

If an innocent person is convicted in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code is not capital, but punishable with imprisonment for a term of 7 years or more, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause *Z* to be convicted of gang-robbery. The punishment of gang-robbery is imprisonment for a term not exceeding 15 years, with or without fine. *A*, therefore, is liable to such imprisonment, with or without fine.

Using evidence known to be false

196. Whoever corruptly uses, or attempts to use, as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true, certificate known to be false

198. Whoever corruptly uses, or attempts to use, any such certificate as a true certificate knowing the same to be false in any material point shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration, knowing it to be false

200. Whoever corruptly uses, or attempts to use, as true, any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation — A declaration which is inadmissible merely upon the ground of some informality is a declaration within the meaning of sections 199 and 200.

Causing disappearance of evidence of offence or giving false information to screen offender

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information in respect of the offence which he knows or believes to be false, shall —

(a) if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment for a term not exceeding 7 years and fine;

(b) if the offence is punishable with imprisonment not exceeding 10 years or over, shall be punished with imprisonment for a term not exceeding 3 years and fine; and

(c) if the offence is punishable with imprisonment for any term not exceeding 10 years, shall be punished with imprisonment of the description provided for the offence, for a term not exceeding one-fourth part of the longest term of the imprisonment provided for the offence, fine or both.

Illustration

A, knowing that *B* has murdered *Z*, assists *B* to hide the body with the intention of screening *B* from punishment. *A* is liable to imprisonment for 7 years and fine.

Intentional omission to give information of offence by person bound to inform

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information in respect of that offence which he is legally bound to give, shall be punished with imprisonment for a term not exceeding 6 months, fine or both.

Giving false information respecting an offence committed

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information in respect of that offence which he knows or believes to be false, shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Explanation — In sections 201 and 202 and in this section, “offence” includes any act committed at any place outside Brunei Darussalam which, if committed in Brunei Darussalam, would be punishable under section 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 459 or 460.

Destruction of document to prevent its production as evidence

204. Whoever —

(a) secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice or in any proceeding lawfully held before a public servant as such; or

(b) obliterates or renders illegible the whole or any part of such document with the intention of preventing the document from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the document for that purpose,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

False personation for purpose of act or proceeding in suit or prosecution

205. Whoever falsely personates another, and, in such assumed character, makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution

206. Whoever fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, intending thereby to prevent that property or interest from being taken —

(a) as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority; or

(b) in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Fraudulent claim to property to prevent its seizure as forfeited or in execution

207. Whoever —

(a) fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest; or

(b) practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken —

(i) as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority; or

(ii) in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Fraudulently suffering decree for sum not due

208. Whoever fraudulently causes or suffers a decree or order —

(a) to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled; or

(b) to be executed against him after it has been satisfied or for anything in respect of which it has been satisfied,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Illustration

A institutes a suit against *Z*. *Z*, knowing that *A* is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of *B*, who has no just claim against him, in order that *B*, either on his own account or for the benefit of *Z*, may share in the proceeds of any sale of *Z*'s property which may be made under *A*'s decree. *Z* has committed an offence under this section.

Dishonestly making false claim in Court

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment for a term not exceeding 2 years and fine.

Fraudulently obtaining decree for sum not due

210. Whoever fraudulently —

(a) obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled;

(b) causes a decree or order to be executed against any person after it has been satisfied, or for anything in respect of which it has been satisfied; or

(c) suffers or permits any such act to be done in his name,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

False charge of offence made with intent to injure

211. Whoever with intent to cause injury to any person —

(a) institutes, or causes to be instituted, any criminal proceeding against that person; or

(b) falsely charges any person with having committed an offence,

knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

If such criminal proceeding be instituted on a false charge of an offence punishable with death, or imprisonment for 7 years or more, he shall be punished with imprisonment for a term not exceeding 7 years and fine.

Harbouring offender

212. (1) Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender with the intention of screening him from legal punishment, shall —

(a) if the offence is punishable with death, be punished with imprisonment for a term not exceeding 5 years and fine;

(b) if the offence is punishable with imprisonment not exceeding 10 years, shall be punished with imprisonment for a term not exceeding 3 years and fine; and

(c) if the offence is punishable with imprisonment not exceeding one year and not to 10 years, shall be punished with imprisonment of the description provided for the offence for a term not exceeding one-fourth part of the longest term of imprisonment provided for the offence, fine or both.

(2) In this section, “offence” includes any act committed at any place outside of Brunei Darussalam, which, if committed in Brunei Darussalam, would be punishable under section 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 or 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Brunei Darussalam.

Taking gift etc. to screen offender from punishment

213. Whoever accepts or attempts to obtain, or agrees to accept —

(a) any gratification for himself or any other person; or

(b) any restitution of property to himself or any other person,

in consideration of his concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall —

- (i) if the offence is punishable with death, be punished with imprisonment for a term not exceeding 7 years and fine;
- (ii) if the offence is punishable with imprisonment not exceeding 10 years, shall be punished with imprisonment for a term not exceeding 3 years and fine; and
- (iii) if the offence is punishable with imprisonment not exceeding 10 years, shall be punished with imprisonment of the description provided for the offence for a term not exceeding one-fourth part of the longest term of imprisonment provided for the offence, fine or both.

Offering gift or restoration of property in consideration of screening offender

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification —

- (a) to any person; or
- (b) to restore, or cause the restoration of, any property to any person,

in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall —

- (i) if the offence is punishable with death, be punished with imprisonment for a term not exceeding 7 years and fine;
- (ii) if the offence is punishable with imprisonment not exceeding 10 years, shall be punished with imprisonment for a term not exceeding 3 years and fine; and

- (iii) if the offence is punishable with imprisonment not exceeding 10 years, shall be punished with imprisonment of the description provided for the offence for a term not exceeding one-fourth part of the longest term of imprisonment provided for the offence, fine or both.

Exception — The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

Taking gift to help to recover stolen property etc.

215. Whoever takes or agrees or consents to take any gratification

(a) under pretence; or

(b) on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code;

shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment for a term not exceeding 2 years, fine or both.

Harbouring offender who has escaped from custody or whose apprehension has been ordered

216. (1) Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following —

(a) if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment for a term not exceeding 7 years and fine;

(b) if the offence is punishable with imprisonment for 10 years, he shall be punished with imprisonment for a term not exceeding 3 years, with or without fine; and

(c) if the offence is punishable with imprisonment not exceeding one year and not to 10 years, he shall be punished with imprisonment of the description provided for the offence for a term not exceeding one-fourth part of the longest term of the imprisonment provided for such offence, fine or both.

(2) In this section, “offence” includes also any act or omission of which a person is alleged to have been guilty outside Brunei Darussalam, which, if he had been guilty of it in Brunei Darussalam, would have been punishable as an offence, and for which he is, under any law relating to extradition liable to be apprehended or detained in custody in Brunei Darussalam; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in Brunei Darussalam.

Exception — This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Penalty for harbouring robbers or gang-robbers

216A. Whoever, knowing or having reason to believe that any person are about to commit, or have recently committed, robbery or gang-robbery, harbours them or any of them with the intention of —

(a) facilitating the commission of such robbery or gang-robbery; or

(b) screening them or any of them from punishment,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Explanation — For the purposes of this section, it is immaterial whether the robbery or gang-robbery is intended to be committed, or has been committed, within or outside Brunei Darussalam.

Exception — This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Harbouring suspected bad characters

216B. (1) Whoever being owner or occupier of any house or place knowingly —

(a) harbours reputed thieves therein; or

(b) knowingly permits them to assemble therein or deposit goods therein reasonably suspected of being stolen,

shall be punished with imprisonment for a term not exceeding 3 years and fine.

(2) If any person convicted under this section is the holder of a licence for the sale of intoxicating liquors or drugs or for keeping of any place of public entertainment or resort, the Court may in its discretion cancel any such licence.

Definition of “harbour” in sections 212, 216, 216A and 216B

216C. In sections 212, 216, 216A and 216B, “harbour” includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting of a person in any way to evade apprehension.

Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant —

(a) intending thereby to save, or knowing it to be likely that he will thereby save any person from legal punishment or subject him to a less punishment than that to which he is liable; or

(b) with intent to save, knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture

218. Whoever, being a public servant and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect —

(a) with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person;

(b) with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment; or

(c) with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Public servant in judicial proceeding corruptly making report etc. contrary to law

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law, shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Commitment for trial or confinement by person having authority who knows that he is acting contrary to law

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Intentional omission to apprehend on part of public servant bound to apprehend

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement, any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping, or attempting to escape, from such confinement, shall be punished as follows —

(a) with imprisonment for a term not exceeding 7 years, with or without fine, if the person in confinement, or who ought to have

been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death;

(b) with imprisonment for a term not exceeding 3 years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term not exceeding 10 years; or

(c) with imprisonment for a term not exceeding 2 years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than 10 years.

Intentional omission to apprehend on part of public servant bound to apprehend person under sentence or lawfully committed

222. Whoever, being a public servant, legally bound as such public servant, to apprehend or to keep in confinement, any person under sentence of a Court of Justice for any offence or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows —

(a) with imprisonment for a term not exceeding 15 years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death;

(b) with imprisonment for a term not exceeding 7 years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to imprisonment for a term of 10 years or more; or

(c) with imprisonment for a term not exceeding 3 years, fine or both, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, to imprisonment for a term not exceeding 10 years, or if the person was lawfully committed to custody.

Escape from confinement or custody negligently suffered by public servant

223. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Resistance etc. to lawful apprehension; escape from custody

224. Whoever intentionally —

(a) offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged, or of which he has been convicted; or

(b) escapes, or attempts to escape, from any custody in which he is lawfully detained for any such offence,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Explanation — The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged or of which he was convicted.

Resistance or obstruction to lawful apprehension of another person

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues, or attempts to rescue, any other person from any custody in which that person is lawfully detained for an offence —

(a) shall be punished with imprisonment for a term not exceeding 2 years, fine or both;

(b) if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term not exceeding 10 years, shall be punished with imprisonment for a term not exceeding 3 years and fine;

(c) if the person to be apprehended, or rescued or attempted to be rescued, is charged with, or liable to be apprehended for, an offence punishable with death, shall be punished with imprisonment for a term not exceeding 7 years and fine;

(d) if the person to be apprehended, or rescued or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to imprisonment for a term of 10 years or more, shall be punished with imprisonment for a term not exceeding 7 years and fine; or

(e) if the person to be apprehended, or rescued or attempted to be rescued, is under sentence of death, shall be punished with imprisonment for a term not exceeding 15 years and fine.

Omission to apprehend, or sufferance or escape, on part of public servant in cases not otherwise provided for

225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, 222 or 223, or in any other written law for the time being in force, omits to apprehend that person or suffers him to escape from confinement shall be punished —

(a) if he does so intentionally, with imprisonment for a term not exceeding 3 years, fine or both; and

(b) if he does so negligently, with imprisonment for a term not exceeding 2 years, fine or both.

Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not provided for

225B. Whoever, in any case not provided for in section 224 or 225 or in any other written law for the time being in force —

(a) intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person;

(b) escapes or attempts to escape from any custody in which he is lawfully detained; or

(c) rescues or attempts to rescue any other person from any custody in which that person is lawfully detained,

shall be punished with imprisonment for a not exceeding 6 months, fine or both.

Unlawful return from deportation etc.

226. Whoever, having been lawfully deported or otherwise lawfully sent out of Brunei Darussalam, returns to Brunei Darussalam, the term for which he was deported or sent out of Brunei Darussalam not having expired, and he not having received a remission of punishment, or otherwise not having lawfully authority to return to Brunei Darussalam, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Violation of condition of remission of punishment

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and, if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Intentional insult or interruption to public servant sitting in stage of judicial proceeding

228. Whoever intentionally offers any insult, or causes any interruption, to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Contempt of Court

228A. Whoever does any act which prejudices or is likely to prejudice the course of justice, or commits any contempt of court which is not expressly made punishable by this Code or any other law, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Personation of juror or assessor

229. Whoever —

(a) by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a

juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn; or

(b) knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Offences for which no special punishment is provided

229A. Whoever does anything which by any written law in force in Brunei Darussalam he is prohibited from doing, or omits to do anything which he is so enjoined to do, shall, when no special punishment is provided by the written law for such commission or omission, be punished with fine not exceeding \$5,000.

CHAPTER XII

OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

“Coin” defined

230. Coin is metal used for the time being as money, and stamped and issued by the authority of some State or sovereign power in order to be so used.

Illustrations

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.

231. *(No section).*

Counterfeiting coin

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment for a term not exceeding 15 years, and shall also be liable to fine.

233. *(No section).*

Making or selling instrument for counterfeiting coin

234. Whoever —

(a) makes or mends, or performs any part of the process of making or mending;

(b) buys, sells or disposes of,

any die or instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Possession of instrument or material for purpose of counterfeiting coin

235. Whoever is in possession of any instrument or material for the purpose of using the instrument or material for counterfeiting coin, or knowing or having reason to believe that the instrument and material is intended to be used for that purpose, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Abetting in Brunei Darussalam counterfeiting of coin outside Brunei Darussalam

236. Whoever, being within Brunei Darussalam, abets the counterfeiting of coin outside of Brunei Darussalam, shall be punished in the same manner as if he abetted the counterfeiting of such coin within Brunei Darussalam.

237. *(No section).*

Import or export of counterfeit coin

238. Whoever imports into Brunei Darussalam, or exports therefrom, any counterfeit coin which he knows, or has reason to believe, to be counterfeit coin, shall be punished with imprisonment for a term not exceeding 10 years, and shall also be liable to fine.

239. *(No section).*

Delivery of coin possessed with knowledge that it is counterfeit

240. Whoever, having any counterfeit coin which at the time when he became possessed of it, he knew to be counterfeit, fraudulently, or with intent that fraud may be committed, delivers the counterfeit coin to any person, or attempts to induce any person to receive it, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment for a term not exceeding 2 years, fine to an amount which not exceeding ten times the value of the coin counterfeited, or both.

Illustration

A, a coiner, delivers counterfeit dollars to his accomplice *B*, for the purpose of uttering them. *B* sells the dollars to *C*, another utterer, who buys them knowing them to be counterfeit. *C* pays away the dollars for goods to *D*, who receives them, not knowing them to be counterfeit. *D*, after receiving the dollars, discovers that they are counterfeit and pays them away as if they were good. Here, *D* is punishable only under this section, but *B* and *C* are punishable under section 240.

242. (*No section*).

Possession of coin by person who knew it to be counterfeit when he became possessed thereof

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment for a term not exceeding 7 years and fine.

244. — 246. (*No sections*).

Fraudulently or dishonestly diminishing weight or altering composition of coin

247. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Explanation — A person who scoops out part of the coin, and puts anything into the cavity, alters the composition of that coin.

248. *(No section).*

Altering appearance of coin with intent that it shall pass as coin of different description

249. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the coin shall pass as a coin of a different description, shall be punished with imprisonment for a term not exceeding 7 years and fine.

250. *(No section).*

Delivery of coin possessed with knowledge that it is altered

251. Whoever —

(a) having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed; and

(b) having known at the time when he became possessed of such coin that such offence had been committed with respect to it,

fraudulently or with intent that fraud may be committed, delivers the coin to any other person, or attempts to induce any other person to receive the coin, shall be punished with imprisonment for a term not exceeding 10 years and fine.

252. *(No section).*

Possession of coin by person who knew it to be altered when he became possessed thereof

253. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 247 or 249 has been committed; having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Delivery of coin as genuine, which when first possessed, deliverer did not know to be altered

254. Whoever —

(a) delivers to any person as genuine, or as a coin of a different description from what it is; or

(b) attempts to induce any person to receive as genuine, or as a different coin from what it is,

any coin in respect of which he knows that any such operation as that mentioned in section 247 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know what such operation had been performed, shall be punished with imprisonment for a term not exceeding 2 years or fine to an amount not exceeding ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Counterfeiting Government stamp

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment for a term which exceeding to 10 years and fine.

Having possession of instrument or material for counterfeiting Government stamp

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Making or selling instrument for counterfeiting Government stamp

257. Whoever —

(a) makes or performs any part of the process of making;

(b) buys, sells or disposes of, any instrument for the purpose of being used; or

(c) knowing or having reason to believe that it is intended to be used,

for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Sale of counterfeit Government stamp

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Having possession of counterfeit Government stamp

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intends to use or dispose of the stamp as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Using as genuine Government stamp known to be counterfeit

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose for which it is ordinarily used, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Effacing writing from substance bearing Government stamp, or removing from document stamp used for it, with intent to cause loss to Government

261. Whoever fraudulently or with intent to cause loss to the Government —

(a) removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used; or

(b) removes from any writing or document, a stamp which has been used for such writing or document in order that such stamp may be used for a different writing or document,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Using Government stamp known to have been before used

262. Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Erasure of mark denoting that stamp has been used

263. Whoever fraudulently or with intent to cause loss to Government —

(a) erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the stamp has been used;

(b) knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed; or

(c) sells or disposes of any such stamp which he knows to have been used,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Prohibition of fictitious stamps

263A. (1) Whoever —

(a) makes, knowingly utters, deals in, or sells any fictitious stamps, or knowingly uses for any postal purposes any fictitious stamp;

(b) has in his possession, without lawful excuse, any fictitious stamp; or

(c) makes, or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine not exceeding \$5,000.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized, and shall be forfeited.

(3) In this section, “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

Selling articles bearing designs resembling currency

263B. Whoever without lawful authority or excuse sells, or offers or exposes for sale, any article which bears a design resembling any currency, bank note or coin, current use in Brunei Darussalam or elsewhere, shall be punished with imprisonment for a term not exceeding 6 months, fine of \$4,000 or both.

CHAPTER XIII

OFFENCES RELATING TO WEIGHTS AND MEASURES

Fraudulent use of false instrument for weighing

264. Whoever fraudulently uses any instrument for weighing which he knows to be false shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Fraudulent use of false weight or measure

265. Whoever fraudulently uses —

(a) any false weight or false measure of length or capacity; or

(b) any weight or any measure of length or capacity as a different weight or measure from what it is,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Being in possession of false weights or measures

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false,

and intending that the instrument may be fraudulently used, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Making or selling false weights or measures

267. Whoever makes, sells or disposes of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, in order that the instrument may be used as true, or knowing that the instrument is likely to be used as true, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

CHAPTER XIV

OFFENCES AFFECTING PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

Public nuisance

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which —

(a) causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity; or

(b) must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

Explanation — A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of disease dangerous to life

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Malignant act likely to spread infection of disease dangerous to life

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease

dangerous to life, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Disobedience to quarantine rule

271. Whoever knowingly disobeys any rule made and promulgated by the Government for —

(a) putting any vessel into a state of quarantine, or for regulating the intercourse of vessels, in a state of quarantine with the shore, or with other vessels; or

(b) regulating the intercourse between places where an infectious disease prevails and other places,

shall be punished with imprisonment for a term not exceeding one year and fine.

Adulteration of food or drink for sale

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink —

(a) intending to sell such article as food or drink; or

(b) knowing it to be likely that the article will be sold as food or drink,

shall be punished with imprisonment for a term not exceeding 2 years and fine.

Sale of noxious food or drink

273. Whoever sells, offers or exposes for sale as food or drink, any article which —

(a) has been rendered or has become noxious; or

(b) is in a state unfit for food or drink, knowing or having reason to believe that the article is noxious as food or drink,

shall be punished with imprisonment for a term not exceeding 2 years and fine.

Adulteration of drugs

274. Whoever adulterates any drug or medical preparation in such a manner as to —

(a) lessen the efficacy or change the operation of such drug or medical preparation; or

(b) make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration,

shall be punished with imprisonment for a term not exceeding 2 years and fine.

Sale of adulterated drugs

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, change its operation, or render it noxious —

(a) sells the same, or offers or exposes it for sale;

(b) issues it from any dispensary for medicinal purposes as unadulterated; or

(c) causes it to be used for medicinal purposes by any person not knowing of the adulteration,

shall be punished with imprisonment for a term not exceeding 2 years and fine.

Sale of drug as different drug or preparation

276. Whoever knowingly —

(a) sells, or offers or exposes for sale; or

(b) issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation,

shall be punished with imprisonment for a term not exceeding 2 years, fine not exceeding \$4,000 or both.

Use of forceps, except by medical practitioner, prohibited

276A. Any person, other than a registered medical practitioner, who uses or attempts to use forceps when assisting in the delivery of a child shall be punished with imprisonment not exceeding 2 years, fine not exceeding \$8,000 or both.

Fouling water of public spring or reservoir

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment for a term not exceeding one year and fine.

Offences caused by fire

277A. (1) Notwithstanding any other written law —

(a) any person who in any open place and during a prescribed period wilfully or negligently starts or keeps any fire or does any act in relation to any fire; and

(b) subject to subsection (3), any registered owner and any occupier of any open place in which during a prescribed period any person wilfully or negligently starts or keeps any fire or does any act in relation to any fire,

shall be punished with fine not exceeding \$100,000.

(2) Notwithstanding any other written law —

(a) any person who in any place and during a prescribed period wilfully or negligently starts or keeps any fire or does any act in relation to any fire; and

(b) subject to subsection (3), any registered owner and any occupier of any place in which during a prescribed period any person wilfully or negligently starts or keeps any fire or does any act in relation to any fire,

in such a manner as to —

- (i) endanger or be likely to endanger human life to cause the destruction of or damage to any property, or to cause any injury, annoyance or obstruction to; or
- (ii) vitiate the atmosphere so as to make it noxious to the health of the public or any section of the public or any persons who may have access to use any public right,

shall be punished with imprisonment not exceeding 5 years, fine or both.

(3) Any such registered owner or occupier is not guilty of an offence under subsection (1) or (2) if he proves to the satisfaction of the court that —

(a) it was committed without his knowledge, consent or connivance and was not attributable to any act or default on his part; or

(b) he attempted to prevent the commission of the offence.

(4) In this section —

“Minister” means the Minister designated by His Majesty the Sultan and Yang Di-Pertuan as the Minister responsible for environment;

“occupier” means the person in occupation of the open place or places, or having the charge, management or control thereof either on his own account or as agent of another person, and includes a tenant or lodger;

“prescribed period” means any period beginning with such date as may be declared by the Minister by order published in the *Gazette* to be the commencement, and ending with such date as may be so declared to be the termination, of the prescribed period for the purpose of this section.

Making atmosphere noxious to health

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on

business in the neighbourhood or passing along a public way, shall be punished with fine not exceeding \$100,000.

Rash driving or riding on public way

279. Whoever drives any vehicle, or rides, on any public way, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Rash navigation of vessel

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person, shall be punished with imprisonment for a term not exceeding 5 years and with fine not exceeding \$10,000.

Exhibition of false light, mark or buoy

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Conveying person by water for hire in unsafe or overloaded vessel

282. Whoever knowingly or negligently conveys or causes to be conveyed, for hire, any person by water, in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Danger or obstruction in public way or line of navigation

283. Whoever, by doing any act, or omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine.

Negligent conduct with respect to poisonous substance

284. Whoever —

(a) does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person; or

(b) knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Negligent conduct with respect to fire or combustible matter

285. Whoever —

(a) does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any person; or

(b) knowing or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment for a term not exceeding 6 months, fine or both.

Negligent conduct with respect to explosive substance

286. Whoever —

(a) does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person; or

(b) knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Negligent conduct with respect to machinery

287. Whoever —

(a) does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person; or

(b) knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Negligent conduct with respect to pulling down or repairing building

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or any part of thereof, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Negligent conduct with respect to animal

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Public nuisance

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine.

Continuance of nuisance after injunction to discontinue

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Sale etc. of obscene articles

292. (1) For the purposes of this section and section 293, an article is deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole,

such as to tend to deprave and corrupt persons who, having regard to all relevant circumstances, are likely (or would have been likely but for the lawful seizure of the article) to read, see or hear the matter contained or embodied in it.

(2) In this section, “article” means any description of article containing or embodying matter to be read or looked at or both, any sound record, and any film, video cassette, photographic negative or other record of a picture.

(3) Whoever —

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire distribution, public exhibition or circulation makes, produces or has in his possession any obscene article;

(b) imports, exports or conveys any obscene article for any of such purposes, or knowing or having reason to believe that such article will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation;

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene articles are, for any of such purposes, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation;

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section or that any such obscene article can be produced from or through any person; or

(e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment for a term not exceeding 2 years and fine of not less than \$500 and not more than \$5,000, and in the case of a second or subsequent conviction, imprisonment for a term not exceeding 5 years and fine of not less than \$1,000 and not more than \$30,000.

Exception — This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bona fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple.

Sale etc. of obscene articles to person under 20

293. Whoever —

(a) sells, lets to hire, distributes, exhibits or circulates to any person under the age of 20 years any obscene articles; or

(b) offers or attempts so to do,

shall be punished with imprisonment for a term not exceeding 3 years and fine of not less than \$1,000 and not more than \$10,000, and in the case of a second or subsequent conviction, imprisonment for a term not exceeding 5 years and fine of not less than \$3,000 and not more than \$50,000.

Possession of indecent photograph of child [S 26/2012]

293A. (1) Whoever has in his possession an indecent or obscene photograph or pseudo-photograph of a child shall be punished with imprisonment not exceeding to 5 years, fine or both.

(2) Where a person is charged with an offence under subsection (1), it shall be a defence for him to prove that —

(a) he had legitimate reason for having the photograph or pseudo-photograph in his possession;

(b) he had not himself seen the photograph or pseudo-photograph and did not know, nor had any cause to suspect, it to be indecent or obscene; or

(c) the photograph or pseudo-photograph was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

Taking, distribution, showing, advertisement and access of indecent photograph of child [S 26/2012]

293B. (1) Whoever —

(a) takes or permits to be taken or abets the taking of any indecent or obscene photograph or pseudo-photograph of a child;

(b) distributes or shows such indecent or obscene photographs or pseudo-photographs;

(c) has in his possession such indecent or obscene photographs with a view to their being distributed or shown by himself to others;

(d) published or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or show such indecent photographs or pseudo-photographs, or intends to do so; or

(e) accesses any indecent or obscene photograph or pseudo-photograph of a child,

shall be punished with imprisonment not exceeding 10 years, fine or both.

(2) In this section, a person is to be regarded as distributing an indecent photograph or pseudo-photograph if he parts with possession of it to, or exposes or offers it for acquisition by, another person.

(3) For the purposes of subsection (1)(e), a person accesses an indecent or obscene photograph or pseudo-photograph of a child if he knowingly causes the indecent or obscene photograph or pseudo-photograph to be viewed by, or transmitted to, himself.

(4) Where a person is charged with an offence under subsection (1)(b) or (c), it shall be a defence for him to prove that —

(a) he had a legitimate reason for distributing or showing the photographs or pseudo-photographs or having them in his possession; or

(b) he had not himself seen the photographs or pseudo-photographs and did not know, nor had any cause to suspect, them to be indecent.

Interpretation of sections 293A and 293B [S 26/2012]

293C. (1) In sections 293A and 293B —

(a) references to an indecent or obscene photograph include an indecent or obscene film, a copy of an indecent or obscene photograph or film, and an indecent or obscene photograph comprised in a film;

(b) photographs and pseudo-photographs (including those comprised in a film) shall, if they show children and are indecent or obscene, be treated for all purposes of this Code as indecent or obscene photographs of children;

(c) references to a photograph include —

- (i) the negative as well as the positive version; and
- (ii) data stored on computer disc or by other electronic means which is capable of conversion into a photograph;

(d) for the purposes of section 293A and 293B, a photograph or pseudo-photograph is deemed to be obscene if its effect is, if taken as a whole, such as to tend to deprave and corrupt persons who, having regard to all relevant circumstances are likely (or would have been likely but for the lawful seizure of the article) to read, see or hear the matter contained or embodied in it;

(e) “film” includes any form of video recording;

(f) “child” means a person under the age of 18 years;

(g) “pseudo-photograph” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph;

(h) if the impression conveyed by a photograph or pseudo-photograph is that the person shown is a child, the photograph or pseudo-photograph shall be treated for all purposes as showing a child and so shall a photograph or pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult;

(i) references to an indecent or obscene photograph or pseudo-photograph include —

- (i) a copy of an indecent or obscene photograph or pseudo-photograph; and
- (ii) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph or pseudo-photograph.

(2) In the proceedings under sections 293A and 293B, a person is to be taken as having been a child at any material time if it appears from the evidence as a whole that the child was then under the age of 18 years.

Defence [S 26/2012]

293D. It is not a defence to a charge under sections 293A and 293B in respect of a photograph or pseudo-photograph that the accused believed that a person shown in the photograph or pseudo-photograph was or was depicted as being the age of 18 years or more unless the accused took all reasonable steps ensure that, where the person was the age of 18 years or more, the photograph or pseudo-photograph did not depict that person as being under the age of 18 years.

Obscene acts and songs

294. (1) Whoever, to the annoyance of others —

(a) does any obscene act in any public place; or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment for a term not exceeding 3 years and fine of not less than \$500 and not more than \$5,000, and in the case of a second or subsequent conviction, imprisonment for a term not exceeding 5 years and fine of not less than \$1,000 and not more than \$30,000.

(2) The question whether any such act, song, ballad or words is obscene shall be determined in accordance with section 292(1) as if any reference there to an obscene article were, so far as circumstances permit, a reference to such act, song, ballad or words, as the case may be.

Prostitution [S 26/2012]

294A. Whoever —

(a) engages in, offers or agrees to engage in sexual services with another person for consideration; or

(b) loiters or solicits in any place for the purpose of prostitution or for any other immoral purpose,

shall be punished with imprisonment for a term not exceeding one year and fine of not less than \$500 and not more than \$5,000, and in the case of a second or subsequent conviction, imprisonment for a term not exceeding 3 years and with a fine of not less than \$1,000 and not more than \$10,000.

Paying for sexual services [S 26/2012]

294B. Whoever —

(a) intentionally obtains for himself the sexual services of another person; and

(b) before obtaining those services, he has made or promised payment for those services to A or a third person, or knows that another person has made or promised such a payment,

shall be punished with imprisonment for a term not exceeding one year and fine of not less than \$1,000 and not more than \$5,000, and in the case of a second or subsequent conviction, imprisonment for a term not exceeding 3 years and with a fine of not less than \$2,000 and not more than \$10,000.

(2) In this section, “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

CHAPTER XV

OFFENCES RELATING TO RELIGION

Injuring or defiling place of worship with intent to insult the religion of any class

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons —

(a) with the intention of thereby insulting the religion of any class of persons; or

(b) with knowledge that any class of person is likely to consider such destruction, damage or defilement as an insult to their religion,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Disturbing religious assembly

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment for a term not exceeding 3 years and fine.

Trespassing on burial places etc.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby —

(a) commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead;

(b) offers any indignity to any human corpse; or

(c) causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment for a term not exceeding one year and fine.

Interference with grave or human remains

297A. Whoever unlawfully opens any grave, or interferes in any manner with human remains, with intent to remove anything of value, shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Uttering words etc. with deliberate intent to wound religious feelings

298. Whoever, with deliberate intention of wounding the religious feelings of any person —

- (a) utters any word or makes any sound in the hearing of that person;
- (b) makes any gesture in the sight of that person; or
- (c) places any object in the sight of that person,

shall be punished with imprisonment for a term not exceeding one year, fine or both.

CHAPTER XVI

OFFENCES AFFECTING HUMAN BODY

*Offences affecting life***Culpable homicide**

299. Whoever causes death by doing an act —

- (a) with the intention of causing death;
- (b) with the intention of causing such bodily injury as is likely to cause death; or
- (c) with the knowledge that he is likely by such act to cause death,

commits the offence of culpable homicide.

Illustrations

(a) *A* lays sticks and turf over a pit, with the intention of thereby causing death, or with knowledge that death is likely to be thereby caused. *Z*, believing the ground to be firm, treads on it, falls in and is killed. *A* has committed the offence of culpable homicide.

(b) *A* knows *Z* to be behind a bush. *B* does not know it. *A*, intending to cause, or knowing it to be likely to cause *Z*'s death, induces *B* to fire at the bush. *B* fires and kills *Z*: Here, *B* may be guilty of no offence; but *A* has committed the offence of culpable homicide.

(c) *A*, by shooting at a fowl with intent to kill and steal it, kills *B*, who is behind a bush. *A* not knowing that he was there. Here, although *A* was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill *B*, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1 — A person who causes bodily injury to another, who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, is deemed to have caused his death.

Explanation 2 — Where death is caused by bodily injury, the person who causes such bodily injury is deemed to have caused the death, although by resorting to proper remedies and skilful treatment, the death might have been prevented.

Explanation 3 — The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause death of a living child if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder

300. Except in the cases hereinafter excepted, culpable homicide is murder —

(a) if the act by which the death is caused is done with the intention of causing death;

(b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused;

(c) if it is done with the intention of causing such bodily injury to any person, and the bodily injury intended to be inflicted is sufficient, in the ordinary course of nature, to cause death; or

(d) if the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

(a) *A* shoots *Z* with the intention of killing him. *Z* dies in consequence. *A* commits murder.

(b) *A*, knowing that *Z* is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. *Z* dies in consequence of the blow. *A* is guilty of murder although the blow might not have been sufficient, in the ordinary course of nature, to cause the death of a person in a sound state of health. But, if *A*, not knowing that *Z* is labouring under any disease, gives him such a blow as would not, in the ordinary course of nature, kill a person in a sound state of health. Here *A*, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as, in the ordinary course of nature, would cause death.

(c) *A* intentionally gives *Z* a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. *Z* dies in consequence. Here, *A* is guilty of murder, although he may not have intended to cause *Z*'s death.

(d) *A*, without any excuse, fires a loaded cannon into a crowd of persons and kills one of them. *A* is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder

Exception 1 — Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident. The above exception is subject to the following provisos —

Firstly — That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly — That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly — That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation — Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

(a) *A*, under the influence of passion excited by a provocation given by *Z*, intentionally kills *Y*, *Z*'s child. This is murder inasmuch as the provocation was not given by the child and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) *Y* gives grave and sudden provocation to *A*. *A*, on this provocation, fires a pistol at *Y*, neither intending nor knowing himself to be likely to kill *Z*, who is near him, but out of sight. *A* kills *Z*. Here, *A* has not committed murder, but merely culpable homicide.

(c) *A* is lawfully arrested by *Z*, a bailiff. *A* is excited to sudden and violent passion by the arrest and kills *Z*. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) *A* appears as witness before *Z*, a Magistrate. *Z* says that he does not believe a word of *A*'s deposition and that *A* has perjured himself. *A* is moved to sudden passion by these words and kills *Z*. This is murder.

(e) *A* attempts to pull *Z*'s nose. *Z*, in the exercise of the right of private defence, lays hold of *A* to prevent him from doing so. *A* is moved to sudden and violent passion in consequence and kills *Z*. This is murder inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) *Z* strikes *B*. *B* is by this provocation excited to violent rage. *A*, a bystander, intending to take advantage of *B*'s rage, and to cause him to kill *Z*, puts a knife into *B*'s hand for that purpose. *B* kills *Z* with the knife. Here, *B* may have committed only culpable homicide, but *A* is guilty of murder.

Exception 2 — Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip *A*, not in such a manner as to cause grievous hurt to *A*. *A* draws out a pistol. *Z* persists in the assault. *A*, believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots *Z* dead. *A* has not committed murder, but only culpable homicide.

Exception 3 — Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant, acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4 — Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation — It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5 — Culpable homicide is not murder when the person whose death is caused, being above 18 years of age, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily causes *Z*, a person under the age of 18 years, to commit suicide. Here, on account of *Z*'s youth, he was incapable of giving consent to his own death. *A* has therefore abetted murder.

Culpable homicide by causing death of person other than person whose death was intended

301. If a person by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder

302. Whoever commits murder shall be punished with death.

Persons suffering from diminished responsibility

303. (1) Where a person kills or is party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts or omissions in doing or being a party to the killing.

(2) On a charge of culpable homicide amounting to murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who, but for this section, would be liable, whether as principal or as abettor, to be convicted of culpable homicide amounting to murder, shall be liable instead to be convicted of culpable homicide not amounting to murder under section 304(1).

(4) The fact that one party to the killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the

killing was culpable homicide amounting to murder in the case of any other party to it.

Punishment for culpable homicide not amounting to murder

304. (1) Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for a term which may extend to imprisonment for life, if the act by which the death is caused is done with the intention of causing —

(a) death; or

(b) such bodily injury as is likely to cause death.

(2) Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for a term not exceeding 15 years, fine or both, if the act by which the death is caused is done —

(a) with the knowledge that it is likely to cause death;

(b) without the intention of causing death; and

(c) without the intention of causing such bodily injury as is likely to cause death.

Causing death by rash or negligent, driving of motor vehicle, or use of firearms or explosives, or act

304A. (1) Whoever causes the death of any person by the rash or negligent driving of a motor vehicle or the rash or negligent use of firearms or explosives not amounting in either case to culpable homicide shall be punished with imprisonment for a term not exceeding 10 years and fine.

(2) Whoever causes the death of any person by doing any rash or negligent act not amounting either to culpable homicide or to an offence under subsection (1) shall be punished with imprisonment for a term not exceeding 5 years and fine.

(3) For the purposes of this section —

“firearms” means a lethal barrelled weapon of any description;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

Abetment of suicide of child or insane person

305. If any person under the age of 18 years, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide shall be punished with death or imprisonment for life.

Abetment of suicide

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment for a term not exceeding 10 years and fine.

Attempt to murder; other offences by convict

307. (1) Whoever does any act with such intention or knowledge, and under such circumstances, that —

(a) if he, by that act caused death, he would be guilty of murder, shall be punished with imprisonment for a term not exceeding 20 years and fine; and

(b) if hurt is caused to any person by such act, the offender shall be punished with imprisonment for life.

Illustrations

(a) *A* shoots at *Z* with intention to kill him, under such circumstances that, if death ensued, *A* would be guilty of murder. *A* is liable to punishment under this section.

(b) *A* with the intention of causing the death of a child of tender years exposes it in a desert place. *A* has committed the offence defined by this section, though the death of the child does not ensue.

(c) *A*, intending to murder *Z*, buys a gun and loads it. *A* has not yet committed the offence. *A* fires the gun at *Z*. He has committed the offence defined in this section, and if by such firing he wounds *Z*, he is liable to the punishment provided by the latter part of this section.

(d) *A*, intending to murder *Z* by poison, purchases poison and mixes the same with food which remains in *A*'s keeping. *A* has not committed the offence in this section. *A* places the food on *Z*'s table or delivers it to *Z*'s servant to place on *Z*'s table. *A* has committed the offence defined in this section.

(2) When any person offending under this section is under sentence of imprisonment for 15 years he may, if hurt is caused, be punished with death.

Attempt to commit culpable homicide

308. Whoever does any act with such intention or knowledge, and under such circumstances, that —

(a) if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment for a term not exceeding 5 years and fine; and

(b) if hurt is caused to any person by such act, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Illustration

A, on grave and sudden provocation, fires a pistol at *Z*, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. *A* has committed the offence defined in this section.

Infanticide

308A. (1) Any woman who, by any wilful act or omission, causes the death of her child being a child under the age of 12 months, but if at the time of such act or omission the balance of her mind was disturbed by reason of —

(a) her not having fully recovered from the effect of giving birth to the child; or

(b) the effect of lactation consequent upon such birth,

commits the offence of infanticide, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder.

(2) Whoever commits the offence of infanticide shall be punished with imprisonment for a term not exceeding 10 years and fine.

Attempt to commit suicide

309. Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with imprisonment for a term not exceeding one year, fine or both.

310. — 311. (No sections).

*Causing of miscarriage, injuries to unborn children,
exposure of infants and concealment of birth*

Causing miscarriage

312. Whoever voluntarily causes a woman with child to miscarry shall —

(a) if such miscarriage is not done in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term not exceeding 3 years, fine or both; and

(b) if the woman is quick with child, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Explanation — A woman who causes herself to miscarry is within the meaning of this section.

Causing miscarriage without woman's consent

313. Whoever commits the offence defined in section 312 without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Death caused by act done with intent to cause miscarriage

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment for a term not exceeding 10 years and fine.

If the act is done without the consent of the woman, he shall be punished with imprisonment for 15 years.

Explanation — It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent child being born alive or to cause it to die after birth

315. Whoever before the birth of any child —

(a) does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth; and

(b) does by such act prevent that child from being born alive, or causes it to die after its birth,

shall, if such act is not done in good faith for the purpose of saving the life of the mother, be punished with imprisonment for a term not exceeding 10 years, fine or both.

Causing death of quick unborn child by act amounting to culpable homicide

316. Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Illustration

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of a quick unborn child with which she is pregnant is thereby caused. *A* is guilty of the offence defined in this section.

Exposure and abandonment of child under 12 by parent or person having care of it

317. Whoever being the father or mother of a child under the age of 12 years, or having the care of such child, exposes or leaves such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Explanation — This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body

318. Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child dies before, after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished for a term not exceeding 2 years, fine or both.

*Hurt***Hurt**

319. Whoever causes bodily pain, disease or infirmity to any person is said to “cause hurt”.

Grievous hurt

320. The following kinds of hurt only are designated as “grievous” —

- (a) emasculation;
- (b) permanent privation of the sight of either eye;
- (c) permanent privation of the hearing of either ear;
- (d) privation of any member or joint;
- (e) destruction or permanent impairing of the powers of any member or joint;
- (f) permanent disfiguration of the head or face;
- (g) fracture or dislocation of a bone or tooth;
- (h) any hurt which endangers life, or which causes the sufferer to be during the space of 20 days in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt

321. Whoever does any act —

- (a) with the intention of thereby causing hurt to any person; or
- (b) with the knowledge that he is likely thereby to cause hurt to any person,

and does thereby cause hurt to any person, is said to “voluntarily cause hurt”.

Voluntarily causing grievous hurt

322. Whoever voluntarily causes hurt —

(a) if the hurt which he intends to cause, or knows himself to be likely to cause, is grievous hurt; and

(b) if the hurt which he causes is grievous hurt,

is said to “voluntarily cause grievous hurt”.

Explanation — A person is not said to voluntarily cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration

A, intending or knowing himself to be likely permanently to disfigure *Z*'s face, gives *Z* a blow which does not permanently disfigure *Z*'s face, but which causes *Z* to suffer severe bodily pain for the space of 20 days. *A* has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt shall be punished with imprisonment for a term not exceeding 3 years and fine.

Voluntarily causing hurt by dangerous weapons or means

324. Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of —

(a) any instrument —

(i) for shooting, stabbing or cutting; or

(ii) which, used as a weapon of offence, is likely to cause death;

(b) fire or any heated substance;

(c) any poison or any corrosive substance;

(d) any explosive substance;

(e) any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood; or

(f) any animal,

shall be punished with imprisonment for a term not exceeding 7 years and whipping.

Punishment for voluntarily causing grievous hurt

325. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Voluntarily causing grievous hurt by dangerous weapons or means

326. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of —

(a) any instrument —

(i) for shooting, stabbing or cutting; or

(ii) which, used as a weapon of offence, is likely to cause death,

(b) fire or any heated substance;

(c) any poison or any corrosive substance;

(d) any explosive substance;

(e) any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood; or

(f) any animal,

shall be punished with imprisonment for a term not exceeding 15 years and whipping.

Voluntarily causing hurt to extort property or constrain to illegal act

327. Whoever voluntarily causes hurt for the purpose of —

(a) extorting from the sufferer or any person interested in the sufferer, any property or valuable security; or

(b) constraining the sufferer or any person interested in the sufferer, to do anything that is illegal or which may facilitate the commission of an offence,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Causing hurt by means of poison etc. with intent to commit offence

328. Whoever administers to, or causes to be taken by, any person, any poison or any stupefying, intoxicating or unwholesome drug or other thing —

(a) with intent to cause hurt to such person;

(b) with intent to commit or to facilitate the commission of an offence; or

(c) knowing it to be likely that he will thereby cause hurt,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Voluntarily causing grievous hurt to extort property or constrain to illegal act

329. Whoever voluntarily causes grievous hurt for the purpose of —

(a) extorting from the sufferer or any person interested in the sufferer, any property or valuable security; or

(b) constraining the sufferer or any person interested in such sufferer, to do anything that is illegal or which may facilitate the commission of an offence,

shall be punished with imprisonment for a term not exceeding 15 years and whipping.

Voluntarily causing hurt to extort confession or compel restoration of property

330. Whoever voluntarily causes hurt for the purpose of —

(a) extorting from the sufferer or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct; or

(b) constraining the sufferer or any person interested in the sufferer, to restore, or to cause the restoration of, any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security,

shall be punished with imprisonment for a term not exceeding 7 years and whipping.

Illustrations

(a) *A*, a police officer, tortures *Z* in order to induce *Z* to confess that he committed a crime. *A* is guilty of an offence under this section.

(b) *A*, a police officer, tortures *B* to induce him to point out where certain stolen property is deposited. *A* is guilty of an offence under this section.

(c) *A*, a revenue officer, tortures *Z* in order to compel him to pay certain arrears of revenue due from *Z*. *A* is guilty of an offence under this section.

Voluntarily causing grievous hurt to extort confession or to compel restoration of property

331. Whoever voluntarily causes grievous hurt for the purpose of —

(a) extorting from the sufferer or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct; or

(b) constraining the sufferer or any person interested in the sufferer, to restore, or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Voluntarily causing hurt to deter public servant from his duty

332. Whoever voluntarily causes hurt to any person being a public servant —

(a) in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant; or

(b) in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant,

shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Voluntarily causing grievous hurt to deter public servant from his duty

333. Whoever voluntarily causes grievous hurt to any person being a public servant—

(a) in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant; or

(b) in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Voluntarily causing hurt on provocation

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment for a term not exceeding 6 months and fine.

Voluntarily causing grievous hurt on provocation

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Explanation — Sections 333 and 334 are subject to the same provisos as *Exception 1*, section 300.

Act endangering life or personal safety of others

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment for a term not exceeding one year, fine not exceeding \$1,000 or both.

Causing hurt by act endangering life or personal safety of others

337. Whoever causes any hurt to any person by doing any act or rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment for a term not exceeding 2 years and fine.

Causing grievous hurt by act endangering life or personal safety of others

338. Whoever causes any grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment for a term not exceeding 5 years and fine.

*Wrongful restraint and wrongful confinement***Wrongful restraint**

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to “wrongfully restrain” that person.

Exception — The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration

A obstructs a path along which *Z* has a right to pass, *A* not believing in good faith that he has a right to stop the path. *Z* is thereby prevented from passing. *A* wrongfully restrains *Z*.

Wrongful confinement

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said to “wrongfully confine” that person.

Illustrations

(a) *A* causes *Z* to go within a walled space and locks *Z* in. *Z* is thus prevented from proceeding in any direction beyond the circumscribing line of wall. *A* wrongfully confines *Z*.

(b) *A* places men with firearms at the outlets of a building and tells *Z* that they will fire at *Z* if *Z* attempts to leave the building. *A* wrongfully confines *Z*.

Punishment for wrongful restraint

341. Whoever wrongfully restrains any person shall be punished with imprisonment for a term not exceeding one year and fine.

Punishment for wrongful confinement

342. Whoever wrongfully confines any person shall be punished with imprisonment for a term not exceeding 3 years and fine.

Wrongful confinement for 3 or more days

343. Whoever wrongfully confines any person for 3 days or more shall be punished with imprisonment for a term not exceeding 5 years and fine.

Wrongful confinement for 10 or more days

344. Whoever wrongfully confines any person for 10 days or more shall be punished with imprisonment for a term not exceeding 7 years and whipping with not less than 3 strokes.

Wrongful confinement of person for whose liberation writ has been issued

345. Whoever keeps any person in wrongful confinement knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment for a term not exceeding 5 years in addition to any term

of imprisonment to which he may be liable under any other section of this Chapter.

Wrongful confinement in secret

346. Whoever wrongfully confines any person in such manner as to indicate an intention that —

(a) the confinement of such person may not be known to any person interested in the person so confined or to any public servant; or

(b) the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned,

shall be punished with imprisonment for a term not exceeding 5 years in addition to any other punishment to which he may be liable for such wrongfully confinement.

Wrongful confinement to extort property or constraint to illegal act

347. Whoever wrongfully confines any person for the purpose of —

(a) extorting from the person confined or any person interested in the person confined, any property or valuable security; or

(b) constraining the person confined or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence,

shall be punished with imprisonment for a term not exceeding 10 years and whipping with not less than 3 strokes.

Wrongful confinement to extort confession or compel restoration of property

348. Whoever wrongfully confines any person for the purpose of —

(a) extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct; or

(b) constraining the person confined, or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security,

shall be punished with imprisonment for a term not exceeding 7 years and whipping with not less than 3 strokes.

Criminal force and assault

Force

349. A person is said to “use force” to another if —

(a) he causes motion, change of motion or cessation of motion to that other; or

(b) he causes to any substance such motion, change of motion or cessation of motion as brings that substance into contact with any part of that other’s body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other’s sense of feeling:

Provided that the person causing the motion, or change of motion or cessation of motion, causes that motion, change of motion or cessation of motion, in one of the following three ways —

(a) by his own bodily power;

(b) by disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person;

(c) by inducing any animal to move, to change its motion or to cease to move.

Criminal force

350. Whoever intentionally uses force to any person, without that person’s consent —

(a) in order to commit any offence; or

(b) intending, by the use of such force, to cause, or knowing it to be likely that by the use of such force, he will cause injury, fear or annoyance to the person to whom the force is used,

is said to “use criminal force” to that other.

Illustrations

(a) *Z* is sitting in a moored boat on a river. *A* unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here, *A* intentionally causes motion to *Z*, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person’s part. *A* has therefore, intentionally used force to *Z*; and if he has done so without *Z*’s consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to *Z*, *A* has used criminal force to *Z*.

(b) *Z* is riding in a carriage. *A* lashes *Z*’s horses and thereby causes them to quicken their pace. Here, *A* has caused change of motion to *Z* by inducing the animals to change their motion. *A* has therefore, used force to *Z*; and if *A* has done this without *Z*’s consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy *Z*, *A* has used criminal force to *Z*.

(c) *Z* is riding in a rickshaw. *A*, intending to rob *Z*, seizes the shaft and stops the rickshaw. Here, *A* has caused cessation of motion to *Z*, and he has done this by his own bodily power. *A* has therefore, used force to *Z*; and as *A* has acted thus intentionally, without *Z*’s consent, in order to the commission of an offence, *A* has used criminal force to *Z*.

(d) *A* intentionally pushes against *Z* in the street. Here, *A* has by his own bodily power moved his own person so as to bring it into contact with *Z*. He has therefore, intentionally used force to *Z*; and if he has done so without *Z*’s consent intending or knowing it to be likely that he may thereby injure, frighten or annoy *Z*, he has used criminal force to *Z*.

(e) *A* throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with *Z*, or with *Z*’s clothes, or with something carried by *Z*, or that it will strike water, and dash up the water against *Z*’s clothes or something carried by *Z*. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with *Z* or *Z*’s clothes, *A* has used force to *Z*; and if he did so without *Z*’s consent, intending thereby to injure, frighten or annoy *Z*, he has used criminal force to *Z*.

(f) *A* intentionally pulls up a woman’s veil. Here, *A* intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy *Z*, he has used criminal force to her.

(g) *Z* is bathing. *A* pours into the bath, water which he knows to be boiling. Here, *A* intentionally by his own bodily power, causes such motion in the boiling water as brings that water into contact with *Z*, or with other water so situated that such contact must affect *Z*’s sense of feeling. *A* has therefore, intentionally used force to *Z*; and if he has done this without *Z*’s consent, intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to *Z*, *A* has used criminal force.

(h) *A* incites a dog to spring upon *Z*, without *Z*’s consent. Here, if *A* intends to cause injury, fear or annoyance to *Z*, he uses criminal force to *Z*.

Assault

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an “assault”.

Explanation — Mere words do not amount to an assault, but the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

(a) *A* shakes his fist at *Z*, intending or knowing it to be likely that he may there cause *Z* to believe that *A* is about to strike *Z*. *A* has committed an assault.

(b) *A* begins to unloose the muzzle of a ferocious dog intending or knowing it to be likely that he may thereby cause *Z* to believe that he is about to cause the dog to attack *Z*. *A* has committed an assault upon *Z*.

(c) *A* takes up a stick, saying to *Z*, “I will give you a beating”. Here, though the words used by *A* could in no case amount to an assault, and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for assault or criminal force otherwise than in grave provocation

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person shall be punished with imprisonment for a term not exceeding one year and fine.

Explanation — Grave and sudden provocation will not mitigate the punishment of an offence under this section if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or if the provocation is given by anything done in the lawful exercise of the right of private defence. Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

Assault or criminal force to deter public servant from discharge of his duty

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with

intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done, or attempted to be done, by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment for a term not exceeding 5 years and fine.

Assault or criminal force to person with intent to outrage modesty

354. Whoever assaults or uses criminal force to any person, intending thereby to outrage, or knowing it to be likely that he will thereby outrage the modesty of that person, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Aggravated outraging modesty [S 26/2012]

354A. (1) Whoever, in order to commit or to facilitate the commission of an offence against any person under section 354 —

(a) voluntarily causes or attempts to cause to that person, death, hurt or wrongful restraint; or

(b) puts that person in fear of death, hurt or wrongful restraint,

shall be punished with imprisonment for a term of not less than 2 years and not more than 7 years and whipping.

(2) Whoever commits an offence under subsection (1) against any person under the age of 14 years, shall be punished with imprisonment for a term of not less than 3 years and not more than 7 years and whipping.

Outraging modesty by person in position of trust or authority [S 26/2012]

354B. Whoever —

(a) being in a position of trust or authority towards a person under the age of 18 years (*A*); or

(b) is a person with whom *A* is in a relationship of dependency,

assaults or uses criminal force to *A*, intending thereby to outrage, or knowing it likely that he will thereby outrage the modesty of *A*, shall be punished with imprisonment for a term not less than 3 years and not more than 10 years and whipping.

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment for a term not exceeding 5 years and with whipping.

Assault or criminal force in attempt to commit theft of property carried by person

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft of any property which that person is then wearing or carrying, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Assault or criminal force in attempt wrongfully to confine person

357. Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person shall be punished with imprisonment for a term not exceeding 3 years and whipping.

Assault or criminal force on grave provocation

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with imprisonment for a term not exceeding 6 months and fine not exceeding \$2,000.

*Kidnapping, abduction, slavery and forced labour***Kidnapping**

359. Kidnapping is of two kinds —

(a) kidnapping from Brunei Darussalam; and

(b) kidnapping from lawful guardianship.

Kidnapping from Brunei Darussalam

360. Whoever conveys any person beyond the limits of Brunei Darussalam, without the consent of that person, or of some person legally

authorised to consent on behalf of that person, is said to kidnap that person from Brunei Darussalam.

Kidnapping from lawful guardianship

361. Whoever takes or entices —

(a) any minor under the age of 14 years if a male, or under the age of 16 years if a female; or

(b) any person of unsound mind,

out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to “kidnap” such minor or person from lawful guardianship.

Explanation — In this section, “lawful guardian” include any person lawfully entrusted with the care or custody of such minor or other person.

Exception — This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction

362. Whoever by force compiles, or by any deceitful means induces, any person to go from any place, is said to “abduct” that person.

Punishment for kidnapping

363. Whoever kidnaps any person from Brunei Darussalam or from lawful guardianship shall be punished with imprisonment for a term not exceeding 10 years and fine.

Kidnapping or abducting in order to murder

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with death.

Illustrations

(a) *A* kidnaps *Z* from Brunei Darussalam intending or knowing it to be likely that *Z* may be sacrificed to an idol. *A* has committed the offence defined in this section.

(b) *A* forcibly carries or entices *B* away from his home in order that *B* may be murdered. *A* has committed the offence defined in this section.

Kidnapping or abducting with intent to secretly and wrongfully confine person

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Kidnapping or abducting woman to compel her marriage etc.

366. Whoever kidnaps or abducts any woman —

(a) with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will; or

(b) in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Procreation of minor girl

366A. Whoever, by any means whatsoever, induces any minor girl under the age of 18 years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment not exceeding 30 years and whipping with not less than 12 strokes.

Importation of girl from foreign country

366B. Whoever imports into Brunei Darussalam from any country outside Brunei Darussalam any girl under the age of 21 years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Kidnapping or abducting in order to subject person to grievous hurt, slavery etc.

367. Whoever kidnaps or abducts any person —

(a) in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person; or

(b) knowing it to be likely that such person will be so subjected or disposed of,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Wrongfully concealing or keeping in confinement kidnapped or abducted person

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under 10 with intent to steal from its person

369. Whoever kidnaps or abducts any child under the age of 10 years, with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Buying or disposing of any person as slave

370. Whoever —

(a) imports, exports, removes, buys, sells or disposes of any person as a slave; or

(b) accepts, receives or detains against his will any person as a slave,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Habitual dealing in slaves

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Selling minor for purposes of prostitution etc.

372. Whoever sells, lets to hire or otherwise disposes of any person under the age of 18 years —

(a) with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose; or

(b) knowing it to be likely that such person will at any age be employed or used for such purpose,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Explanation 1 — When a female under the age of 18 years is sold, let for hire or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation 2 — For the purposes of this section, “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.

Buying minor for purposes of prostitution

373. Whoever buys, hires or otherwise obtains possession of any person under the age of 18 years —

(a) with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawfully and immoral purpose; or

(b) knowing it to be likely that such person will at any age be employed or used for any such purpose,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Explanation 1 — Any prostitute, or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of 18 years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation 2 — “Illicit intercourse” has the same meaning as in section 372.

Importing for purposes of prostitution etc.

373A. Whoever —

(a) by any false pretence, false representation, or fraudulent or deceitful means, brings, or assists in bringing, into Brunei Darussalam any woman with intent that such woman may be employed or used for the purpose of prostitution;

(b) brings, or assists in bringing, into Brunei Darussalam any woman with intent that such woman may be sold or bought for the purpose of prostitution;

(c) sells or buys any woman for the purpose of prostitution,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Unlawful compulsory labour

374. Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment for a term not exceeding 3 years and fine.

*Rape, unnatural offences and incest***Rape**

375. A man is said to commit “rape”, who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions —

(a) against her will;

(b) without her consent;

(c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;

(d) with her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is, or believes herself to be, lawfully married;

(e) with or without her consent when she is under the age of 14 years.

Explanation — Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception — Sexual intercourse by a man with his own wife, the wife not being under the age of 13 years, is not rape.

Punishment for rape

376. (1) Subject to subsection (2), whoever commits rape shall be punished with imprisonment for a term not exceeding 30 years and whipping.

(2) Whoever —

(a) in order to commit or to facilitate the commission of an offence of rape against any woman —

(i) voluntarily causes hurt to her or to any other person; or

(ii) puts her in fear of death or hurt to herself or any other person; and

(b) commits rape by having sexual intercourse with a woman under the age of 14 years without her consent,

shall be punished with imprisonment for a term of not less than 8 years and not more than 30 years and whipping with not less than 12 strokes.

Unnatural offences

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for a term not exceeding 10 years and fine.

Explanation — Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Incest

377A. (1) Whoever —

(a) being a male, has sexual intercourse with a female who to his knowledge is his mother, grandmother, granddaughter, daughter, sister or half-sister; or

(b) being a female has sexual intercourse with a male who to her knowledge is her father, grandfather, grandson, son, brother or half-brother,

is said to commit “incest” and shall be punished with imprisonment for a term not exceeding 10 years and fine.

Explanation — It is immaterial whether the relationship between the persons charged is or is not traced through lawful wedlock.

(2) This section does not apply to Malays and other races indigenous to Brunei Darussalam who by their own law or custom are punishable for having sexual intercourse within prohibited degrees of relationship.

Engaging in sexual activity in presence of person under 16 [S 26/2012]

377B. Whoever (A) —

(a) intentionally engages in an activity;

(b) the activity is sexual; and

(c) for the purpose of obtaining sexual gratification, he engages it —

- (i) in the presence of a person under the age of 16 years (*B*) or is in a place from which *A* can be observed; and
- (ii) knowing or believing that *B* is aware or intending that *B* should be aware that he is engaging in it,

shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Causing person under 16 to watch sexual act [S 26/2012]

377C. Whoever (*A*) for the purpose of obtaining sexual gratification —

(a) intentionally causes a person under the age of 16 years (*B*) to watch a third person engaging in an activity or to look at an image of any person engaging in an activity; and

(b) the activity is sexual,

shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Commercial sex with person under 18 [S 26/2012]

377D. (1) Whoever obtains for consideration the sexual services of a person who is under the age of 18 years shall be punished with imprisonment for a term which shall not be less than 2 years and not more than 7 years and whipping.

(2) Any person who communicates with another person for the purpose of obtaining for consideration the sexual services of a person who is under the age of 18 years shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Commercial sex with person under 18 outside Brunei Darussalam

[S 26/2012]

377E. Whoever, being a citizen of Brunei Darussalam or a permanent resident, does, outside Brunei Darussalam, any act that would, if done in

Brunei Darussalam, constitute an offence under section 377D, shall be liable to the same punishment to which he would have been liable had he been convicted of an offence under section 377D.

Tour outside Brunei Darussalam for commercial sex with person under 18 [S 26/2012]

377F. (1) Whoever —

(a) makes or organises any travel arrangements for or on behalf of any other person with the intention of facilitating the commission by that other person of an offence under section 377D, whether or not such an offence is actually committed by that other person;

(b) transports any other person to a place outside Brunei Darussalam with the intention of facilitating the commission by that other person of an offence under section 377D, whether or not such an offence is actually committed by that other person; or

(c) prints, publishes or distributes any information that is intended to promote conduct that would constitute an offence under section 377D, or to assist any other person to engage in such conduct,

shall be punished with imprisonment for a term not exceeding 10 years, fine or both.

(2) For the purposes of subsection (1)(c), “publishes of information” means the publication of information by any means, whether by written, electronic or other form of communication.

Sexual grooming of person under 16 [S 26/2012]

377G. (1) Whoever is of or above the age of 21 years (*A*) if having met or communicated with another person (*B*) on two or more previous occasions —

(a) *A* intentionally meets *B* or travels with the intention of meeting *B*; and

(b) at the time of the acts referred to in paragraph (a) —

- (i) *A* intends to do anything to or in respect of *B*, during or after the meeting, which if done will involve the commission by *A* of a relevant offence;
- (ii) *B* is under the age of 16 years; and
- (iii) *A* does not reasonably believe that *B* is of or above the age of 16 years,

shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

(2) In subsection (1), “relevant offence” means an offence under —

(a) section 354, 354A, 354B, 375, 377, 377B, 377C or 377D;

(b) section 2 of the Unlawful Carnal Knowledge Act (Chapter 29); or

(c) section 3(1) of the Women and Girls Protection Act (Chapter 120).

(3) For the purposes of this section, it is immaterial whether the two or more previous occasions of *A* having met or communicated with *B* referred to in subsection (1) took place in or outside Brunei Darussalam.

Voyeurism [S 26/2012]

377H. (1) Whoever —

(a) for the purpose of obtaining sexual gratification, observes another person doing a private act; and

(b) he knows that the person does not consent to being observed for his sexual gratification,

shall be punished with imprisonment not exceeding 3 years, fine or both.

(2) Whoever —

(a) for the purpose of obtaining sexual gratification, operates equipment with the intention of enabling another person to observe, a third person (*B*) doing a private act; and

(b) he knows that *B* does not consent to his operating equipment with that intention,

shall be punished with imprisonment not exceeding 3 years, fine or both.

(3) Whoever —

(a) for the purpose of obtaining sexual gratification, records another person (*B*) doing a private act and with the intention that he or a third person will, look at an image of *B* doing the act; and

(b) he knows that *B* does not consent to his recording the act with that intention,

shall be punished with imprisonment not exceeding 3 years, fine or both.

(4) Whoever installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling himself or another person to commit an offence under subsection (1),

shall be punished with imprisonment not exceeding 3 years, fine or both.

Printing, publication etc. of voyeuristic recording [S 26/2012]

377I. Any person, knowing that a recording was obtained by the commission of an offence under section 377H —

(a) prints, copies, publishes, distributes, circulates, sells, advertises or makes available the recording; or

(b) has the recording in his possession for the purposes of printing, copying, publishing, distributing, circulating, selling or advertising it or making it available,

shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Voyeurism: interpretation [S 26/2012]

377J. (1) For the purposes of section 377H, a person is doing a private act if the person is in a place which, in the circumstances, would reasonably be expected to provide privacy, and —

(a) the person's genitals, buttocks or breast are exposed or covered only with underwear;

(b) the person is using a lavatory; or

(c) the person is doing a sexual act that is not of a kind ordinarily done in public.

(2) In section 377H, "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

Mistake as to age [S 26/2012]

377K. (1) Subject to subsections (2) and (3) and notwithstanding anything in section 79, a reasonable mistake as to the age of a person shall not be a defence to any charge of an offence under section 377B, 377C, 377D or 377E.

(2) In the case of a person who at the time of the alleged offence was under the age of 21 years, the presence of a reasonable mistaken belief that the person, who is of the opposite sex, was of or above the age of 18 years, shall be a valid defence to a charge of an offence under section 377D or 377E.

(3) For the purposes of subsection (2), the defence under that subsection shall no longer be available if at the time of the offence, the person charged with that offence has previously been charged in court for an offence under section 377D or 377E or under section 3(1) of the Women and Girls Protection Act (Chapter 120).

(4) It is not a defence to a charge under section 377B, 377C, 377D, 377E or 377G or under section 2 of the Unlawful Carnal Knowledge Act (Chapter 29) that the accused had reasonable cause to believe that the person was of or above the age of 16 years or 18 years, as the case may be, unless the accused took all reasonable steps to ascertain the age of that person.

CHAPTER XVII

OFFENCES AGAINST PROPERTY

*Theft***Theft**

378. Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit "theft".

Explanation 1 — A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2 — A moving effected by the same act which effects the severance, may be a theft.

Explanation 3 — A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4 — A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5 — The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority, either express or implied.

Illustrations

(a) *A* cuts down a tree on *Z*'s ground, with the intention of dishonestly taking the tree out of *Z*'s possession, without *Z*'s consent. Here, as soon as *A* has severed the tree in order to such taking, he has committed theft.

(b) *A* puts a bait for dogs in his pocket, and thus induces *Z*'s dog to follow it. Here, if *A*'s intention be dishonestly to take the dog out of *Z*'s possession without *Z*'s consent, *A* has committed theft as soon as *Z*'s dog has begun to follow *A*.

(c) *A* meets a bullock carrying a box of treasure. He drives the bullock in a certain direction in order that he may dishonestly take the treasure. As soon as the bullock begins to move, *A* has committed theft of the treasure.

(d) *A*, being *Z*'s servant, and entrusted by *Z* with the care of *Z*'s plate, dishonestly runs away with the plate without *Z*'s consent. *A* has committed theft.

(e) *Z*, going on a journey, entrusts his plate to *A*, the keeper of a warehouse, till *Z* shall return. *A* carries the plate to a goldsmith and sells it. Here, the plate was not in *Z*'s possession. It could not therefore, be taken out of *Z*'s possession, and *A* has not committed theft, though he may have committed criminal breach of trust.

(f) *A* finds a ring belonging to *Z* on a table in the house which *Z* occupies. Here, the ring is in *Z*'s possession, and if *A* dishonestly removes it, *A* commits theft.

(g) *A* finds a ring lying on the high road, not in the possession of any person. *A*, by taking it commits no theft, though he may commit criminal misappropriation of property.

(h) *A* sees a ring belonging to *Z* lying on a table in *Z*'s house. Not venturing to misappropriate the ring immediately for fear of search and detection, *A* hides the ring in a place where it is highly improbable that it will never be found by *Z* with the intention of taking the ring from the hiding place, and selling it when the loss is forgotten. Here, *A*, at the time of first moving the ring, commits theft.

(i) *A* delivers his watch to *Z*, a jeweller, to be regulated. *Z* carries it to his shop. *A*, not owing the jeweller any debt for which the jeweller might lawfully detain the watch as a security enters the shop openly, takes his watch by force out of *Z*'s hand and carries it away. Here, *A*, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If *A* owes money to *Z* for repairing the watch, and if *Z* retains the watch lawfully as a security for the debt and *A* takes the watch out of *Z*'s possession with the intention of depriving *Z* of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if *A*, having pawned his watch to *Z*, takes it out of *Z*'s possession without *Z*'s consent, not having paid what he borrowed on the watch, he commits theft though the watch is his own property inasmuch as he takes it dishonestly.

(l) *A* takes an article belonging to *Z* out of *Z*'s possession, without *Z*'s consent, with the intention of keeping it until he obtains money from *Z* as a reward for its restoration. Here, *A* takes dishonestly. *A* has therefore, committed theft.

(m) *A*, being on friendly terms with *Z*, goes into *Z*'s library in *Z*'s absence, and takes away a book without *Z*'s express consent, for the purpose merely reading it and with the intention of returning it. Here, it is probable that *A* has conceived that he had *Z*'s implied consent to use *Z*'s book. If this was *A*'s impression, *A* has not committed theft.

(n) *A* asks charity from *Z*'s wife. She gives *A*'s money, food and clothes, which *A* knows belongs to *Z* her husband. Here, it is probable that *A* may conceive that *Z*'s wife is authorised to give away alms. If this was *A*'s impression, *A* has not committed theft.

(o) *A* is the paramour of *Z*'s wife. She gives *A* valuable property, which *A* knows to belong to her husband *Z*, and to be such property as she has not authority from *Z* to give. If *A* takes the property dishonestly, he commits theft.

(p) *A*, in good faith, believing property belonging to *Z* to be *A*'s own property, takes that property out of *Z*'s possession. Here, as *A* does not take dishonestly, he does not commit theft.

Punishment for theft

379. Whoever commits theft shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Theft in dwelling house etc.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Theft in protected place or place of worship [S 51/2014]

380A. (1) Whoever commits theft in —

- (a) a protected place; or
- (b) any building used as a place for worship,

shall be punished with imprisonment for a term not exceeding 10 years and with whipping.

(2) For the purposes of subsection (1), “protected place” means any place or premises declared to be a protected place under section 5 of the Protected Areas and Protected Places Act (Chapter 147).

Theft by clerk or servant of property in possession of master

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Theft after preparation made for causing death, hurt or restraint, in order to commit theft

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to —

- (a) commit such theft; or
- (b) effect his escape after commit such theft; or

(c) the retaining of property taken by such theft,

shall be punished with imprisonment for a term not exceeding 15 years and whipping.

Illustrations

(a) *A* commits theft of property in *Z*'s possession; and while committing the theft he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting *Z* in case *Z* should resist. *A* has committed the offence defined in this section.

(b) *A* picks *Z*'s pocket, having posted several of his companions near him in order that they may restrain *Z* if *Z* should perceive what is passing, and should resist, or should attempt to apprehend *A*. *A* has committed the offence defined in this section.

Extortion

Extortion

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed, which may be converted into a valuable security, commits "extortion".

Illustrations

(a) *A* threatens to publish a defamatory libel concerning *Z* unless *Z* gives him money. He thus induces *Z* to give him money. *A* has committed extortion.

(b) *A* threatens *Z* that he will keep *Z*'s child in wrongful confinement unless *Z* will sign and deliver to *A* a promissory note binding *Z* to pay certain moneys to *A*. *Z* signs and delivers the note. *A* has committed extortion.

(c) *A* threatens to send men to plough up *Z*'s field unless *Z* will sign and deliver to *B* a bond binding *Z* under a penalty to deliver certain produce to *B*, and thereby induces *Z* to sign and deliver the bond. *A* has committed extortion.

(d) *A*, by putting *Z* in fear of grievous hurt dishonestly induces *Z* to sign or affix his seal to a blank paper, and deliver it to *A*. *Z* signs and delivers the paper to *A*. Here, as the paper so signed may be converted into a valuable security, *A* has committed extortion.

Punishment for extortion

384. Whoever commits extortion shall be punished with imprisonment for a term of not less than 2 years and not more than 7 years and whipping.

Putting person in fear of injury in order to commit extortion

385. Whoever, in order to commit extortion, puts any person in fear, or attempts to put any person in fear of injury, shall be punished with imprisonment for a term of not less than 3 years and not more than 10 years and whipping.

Extortion by putting person in fear of death or grievous hurt

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment for a term of not less than 5 years and not more than 15 years and whipping.

Putting person in fear of death or of grievous hurt in order to commit extortion

387. Whoever, in order to commit extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment for a term of not less than 3 years and not more than 15 years and whipping.

Extortion by threat of accusation of offence punishable with death or imprisonment etc.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having —

(a) committed, or attempted to commit, any offence punishable with death or imprisonment for a term not exceeding 10 years; or

(b) attempted to induce any other person to commit such offence,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

If the offence is punishable under section 377, he shall be punished with imprisonment for a term not exceeding 15 years.

Putting person in fear of accusation of offence in order to commit extortion

389. Whoever, in order to commit extortion, puts or attempts to put any person in fear of an accusation against that person or any other person of having committed, or attempted to commit, an offence punishable with death, or with imprisonment for a term not exceeding 10 years, shall be punished with imprisonment for a term not exceeding 10 years and whipping.

If the offence is punishable under section 377, he shall be punished with imprisonment for a term not exceeding 15 years.

*Robbery and gang-robbery***Robbery**

390. (1) In all robbery there is either theft or extortion.

(2) Theft is “robbery” if, in order to commit the theft, or in committing the theft, or in carrying away, or attempting to carry away, property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person —

(a) death or hurt or wrongful restraint; or

(b) fear of instant death, or of instant hurt, or of instant wrongful restraint.

(3) Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion —

(a) by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person; and

(b) by so putting in fear, induces the person so put in fear there and then to deliver up the thing extorted.

Explanation — The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt or of instant wrongful restraint.

Illustrations

(a) *A* holds *Z* down, and fraudulently takes *Z*'s money and jewels from *Z*'s clothes, without *Z*'s consent. Here, *A* has committed theft, and, in order to commit that theft, has voluntarily caused wrongful restraint to *Z*. *A* has therefore committed robbery.

(b) *A* meets *Z* on the high road, shows a pistol and demands *Z*'s purse. *Z*, in consequence, surrenders his purse. Here, *A* has extorted the purse from *Z* by putting him in fear of instant hurt, and being, at the time of committing the extortion, in his presence, *A* has therefore, committed robbery.

(c) *A* meets *Z* and *Z*'s child on the high road, *A* takes the child, and threatens to fling it down a precipice unless *Z* delivers his purse. *Z*, in consequence, delivers his purse. Here, *A* has extorted the purse from *Z* by causing *Z* to be in fear of instant hurt to the child who is there present. *A* has therefore, committed robbery on *Z*.

(d) *A* obtains property from *Z* by saying "Your child is in the hands of my gang, and will be put to death unless you send us \$10,000". This is extortion, and punishable as such; but it is not robbery unless *Z* is put in fear of the instant death of his child.

Gang-robbery

391. When —

(a) two or more persons conjointly commit or attempt to commit a robbery, or, where the whole number of persons conjointly committing, or attempting to commit, a robbery; and

(b) persons present and aiding such commission or attempt amount to two or more,

every person so committing, attempting, or aiding is said to commit "gang-robbery".

Punishment for robbery

392. Whoever commits robbery shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Attempt to commit robbery

393. Whoever attempts to commit robbery shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Voluntarily causing hurt in committing robbery

394. If any person, in committing, or in attempting to commit robbery, voluntarily causes hurt, such person and any other person jointly concerned

in committing or attempting to commit such robbery, shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Punishment for gang-robbery

395. Whoever commits gang-robbery shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 12 strokes.

Gang-robbery, with murder

396. If any one of two or more persons, who are conjointly committing gang-robbery commits murder in so committing gang-robbery, every one of those persons shall be punished with death.

Robbery or gang-robbery, with attempt to cause death or grievous hurt

397. If, at the time of committing or attempting to commit robbery or gang-robbery, the offender —

- (a) uses any deadly weapon;
- (b) causes grievous hurt to any person; or
- (c) attempts to cause death or grievous hurt to any person,

the offender shall be punished with imprisonment for a term not less than 7 years and whipping with not less than 12 strokes.

Robbery or gang-robbery, when armed with deadly weapon

398. If, at the time of committing or attempting to commit robbery or gang-robbery, the offender is armed with any deadly weapon, the offender shall be punished with imprisonment for a term not less than 7 years and whipping with not less than 12 strokes.

Making preparation to commit gang-robbery

399. Whoever makes any preparation for committing gang-robbery shall be punished with imprisonment for a term not exceeding 10 years and whipping with not less than 12 strokes.

Punishment for belonging to gang of robbers

400. Whoever belongs to a gang of persons associated for the purpose of habitually committing gang-robbery shall be punished with imprisonment for a term not exceeding 15 years and whipping with not less than 6 strokes.

Punishment for belonging to gang of thieves

401. Whoever belongs to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang-robber, shall be punished with imprisonment for a term not exceeding 7 years and whipping with not less than 6 strokes.

Assembling for purpose of committing gang-robbery

402. Whoever is one of two or more persons assembled for the purpose of committing gang-robbery shall be punished with imprisonment for a term not exceeding 7 years and whipping with not less than 6 strokes.

*Criminal misappropriation of property***Dishonest misappropriation of property**

403. Whoever dishonestly misappropriates or converts to his own use any movable property shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

Illustrations

(a) *A* takes property belonging to *Z* out of *Z*'s possession, in good faith believing, at the time when he takes it, that the property belongs to himself. *A* is not guilty of theft; but if *A*, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) *A*, being on friendly terms with *Z*, goes into *Z*'s library in *Z*'s absence, and takes away a book without *Z*'s express consent. Here, if *A* was under the impression that he had *Z*'s implied consent to take the book for the purpose of reading it, *A* has not committed theft. But if *A* afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) *A* finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. *A* knows that this person can direct him to the person in whose favour the cheque was drawn. *A* appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) *A* sees *Z* drop his purse with money in it. *A* picks up the purse with the intention of restoring it to *Z*, but afterwards appropriates it to his own use. *A* has committed an offence under this section.

(e) *A* finds a purse with money, not knowing to whom it belong; he afterwards discovers that it belongs to *Z*, and appropriates it to his own use. *A* is guilty of an offence under this section.

(f) *A* finds a valuable ring not knowing to whom it belongs. *A* sells it immediately without attempting to discover the owner. *A* is guilty of an offence under this section.

Dishonest misappropriation of property possessed by deceased person at time of his death

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment not exceeding 3 years and fine.

If the offender, at the time of such person's decease, was employed by him as a clerk or servant, he shall be punished with imprisonment for a term not exceeding 7 years.

Illustration

Z dies in possession of furniture and money. His servant *A*, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. *A* has committed the offence defined in this section.

Criminal breach of trust

Criminal breach of trust

405. Whoever, being in any manner entrusted with property, or with any dominion over property —

(a) dishonestly misappropriates or converts to his own use that property;

(b) dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust; or

(c) wilfully suffers any other person so to do,
commits criminal breach of trust.

Illustrations

(a) *A*, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriate them to his own use. *A* has committed criminal breach of trust.

(b) *A* is a warehouse-keeper. *Z*, going on a journey, entrusts his furniture to *A*, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. *A* dishonestly sells the goods. *A* has committed criminal breach of trust.

(c) *A*, residing in Brunei Darussalam, is agent for *Z*, residing at Kuala Belait. There is an express or implied contract between *A* and *Z*, that all sums remitted by *Z* to *A* shall be invested by *A* according to *Z*'s direction. *Z* remits \$10,000 to *A*, with directions to invest the same in land. *A* dishonestly disobeys the directions and employs the money in his own business. *A* has committed criminal breach of trust.

(d) But if *A*, in the last illustration, not dishonestly, but in good faith, believing that it will be more for *Z*'s advantage to hold in a local company, disobeys *Z*'s directions, and buys shares in the local company for *Z*, instead of buying land, here, though *Z* should suffer loss, and should be entitled to bring a civil action against *A* on account of that loss, yet *A*, not having acted dishonestly, has not committed criminal breach of trust.

(e) *A*, a Magistrate or a clerk in a Government office, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. *A* dishonestly appropriates the money. *A* has committed criminal breach of trust.

(f) *A*, a carrier, is entrusted by *Z* with property to be carried by land or by water. *A* dishonestly misappropriates the property. *A* has committed criminal breach of trust.

Punishment for criminal breach of trust

406. Whoever commits criminal breach of trust shall be punished with imprisonment for a term not exceeding 5 years and fine.

Criminal breach of trust by carrier etc.

407. Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Criminal breach of trust by clerk or servant

408. Whoever, being a clerk or servant, or employed as a clerk or servant and being in any manner entrusted in such capacity with property, or with

any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Criminal breach of trust by public servant, banker, merchant or agent

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Receiving of stolen property

Stolen property

410. Property —

(a) the possession whereof has been transferred by theft, extortion or robbery; and

(b) which has been criminally misappropriated or in respect of which criminal breach of trust has been committed,

is designated as “stolen property” whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or outside Brunei Darussalam. But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the property to be stolen property, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Dishonestly receiving property stolen in commission of gang-robbery

412. Whoever dishonestly —

(a) receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of gang-robbery; or

(b) receives from a person whom he knows or has reason to believe to belong, or to have belonged, to a gang of robbers, property which he knows or has reason to believe to have been stolen,

shall be punished with imprisonment for a term not exceeding 15 years and fine.

Habitually dealing in stolen property

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property shall be punished with imprisonment for a term not exceeding 10 years and fine.

Assisting concealment of stolen property

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property shall be punished with imprisonment for a term not exceeding 5 years and fine.

Cheating

Cheating

415. Whoever, by deceiving any person —

(a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property; or

(b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived,

and which act or omission causes, or is likely to cause, damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation — A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

(a) *A*, by falsely pretending to be in the civil service, intentionally deceives *Z*, and thus dishonestly induces *Z* to let him have on credit, goods for which he does not mean to pay. *A* cheats.

(b) *A*, by putting a counterfeit mark on an article, intentionally deceives *Z* into a belief that this article was made by a certain celebrated manufacturer and thus dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(c) *A*, by exhibiting to *Z* a false sample of an article, intentionally deceives *Z* into believing that the article corresponds with the sample and thereby dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(d) *A*, by tendering in payment for an article a bill on a house with which *A* keeps no money, and by which *A* expects that the bill will be dishonoured, intentionally deceives *Z*, and thereby dishonestly induces *Z* to deliver the article, intending not to pay for it. *A* cheats.

(e) *A*, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives *Z*, and thereby dishonestly induces *Z* to lend money. *A* cheats.

(f) *A* intentionally deceives *Z* into a belief that *A* means to repay any money that *Z* may lend to him, and thereby dishonestly induces *Z* to lend him money, *A* not intending to repay it. *A* cheats.

(g) *A* intentionally deceives *Z* into a belief that *A* means to deliver to *Z* a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces *Z* to advance money upon the faith of such delivery. *A* cheats; but if *A*, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) *A* intentionally deceives *Z* into a belief that *A* has performed *A*'s part of a contract made with *Z*, which he has not performed, and thereby dishonestly induces *Z* to pay money. *A* cheats.

(i) *A* sells and conveys an estate to *B*. *A*, knowing that in consequence of such sale, he has no right to the property, sells or mortgages the estate to *Z*, without disclosing the fact of the previous sale and conveyance to *B*, and receives the purchase or mortgage money from *Z*. *A* cheats.

Cheating by personation

416. A person is said to “cheat by personation” if he cheats by —

(a) pretending to be some other person;

(b) knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation — The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) *A* cheats by pretending to be a certain rich banker of the same name. *A* cheats by personation.

(b) *A* cheats by pretending to be *B*, a person who is deceased. *A* cheats by personation.

Punishment for cheating

417. Whoever cheats shall be punished with imprisonment for a term not exceeding 3 years and fine.

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates he was bound, either by law or by a legal contract, to protect, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Punishment for cheating by personation

419. Whoever cheats by personation shall be punished with imprisonment for a term not exceeding 7 years and fine.

Cheating and dishonestly inducing delivery of property

420. Whoever cheats and thereby dishonestly induces the person deceived to —

(a) deliver any property to any person; or

(b) make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

*Fraudulent deeds and dispositions of property***Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors**

421. Whoever dishonestly or fraudulently —

(a) removes, conceals or delivers to any person; or

(b) transfers or causes to be transferred to any person, without adequate consideration,

any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Dishonest or fraudulently preventing debt being available for creditors

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration

423. Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which —

(a) purports to transfer or subject to any charge any property, or any interest therein; and

(b) contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate,

shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Dishonest or fraudulent removal or concealment of property

424. Whoever —

(a) dishonestly or fraudulently conceals or removes any property of himself or any other person;

(b) dishonestly or fraudulently assists in the concealment or removal thereof; or

(c) dishonestly releases any demand or claim to which he is entitled,

shall be punished with imprisonment for a term not exceeding 5 years, fine or both.

Mischief

Mischief

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public, or to any person, causes —

(a) the destruction of any property;

(b) any such change in any property, or in the situation thereof, as destroys or diminishes its value or utility; or

(c) affects it injuriously,

commits “mischief”.

Explanation 1 — It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2 — Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations

(a) *A* voluntarily burns a valuable security belonging to *Z*, intending to cause wrongful loss to *Z*. *A* has committed mischief.

(b) *A* introduces water into an ice-house belonging to *Z* and thus causes the ice to melt, intending wrongful loss to *Z*. *A* has committed mischief.

(c) *A* voluntarily throws into a river a ring belonging to *Z*, with the intention of thereby causing wrongful loss to *Z*. *A* has committed mischief.

(d) *A*, knowing that his effects are about to be taken in execution in order to satisfy a debt from him to *Z*, destroys those effects, with the intention of thereby preventing *Z* from obtaining satisfaction of the debt, and thus causing damage to *Z*. *A* has committed mischief.

(e) *A*, having insured a ship, voluntarily causes the ship to be cast away, with the intention of causing damage to the under writers. *A* has committed mischief.

(f) *A* causes a ship to be cast away, intending thereby to cause damage to *Z*, who has lent money on bottomry on the ship. *A* has committed mischief.

(g) *A*, having joint property with *Z* in a horse, shoots the horse, intending thereby to cause wrongful loss to *Z*. *A* has committed mischief.

(h) *A* causes cattle to enter upon a field belonging to *Z*, intending to cause, and knowing that he is likely to cause, damage to *Z*'s crop. *A* has committed mischief.

Punishment for mischief

426. Whoever commits mischief shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

[S 51/2014]

Mischief causing damage to amount of \$500

[S 51/2014]

427. Whoever commits mischief, and thereby causes loss or damage to the amount of \$500 or more, shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 2 strokes.

Mischief in protected place or place of worship [S 51/2014]

427A. (1) Whoever commits mischief —

(a) in a protected place; or

(b) to any building used as a place for worship, or any property therein,

shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 4 strokes.

(2) For the purposes of subsection (1), “protected place” means any place or premises declared to be a protected place in the Protected Areas and Protected Places Act (Chapter 147).

Mischief by killing or maiming animal*[S 51/2014]*

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any animal shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 2 strokes.

429. *(Repealed by S 51/2014)*

Mischief by injury to works of irrigation or by wrongfully diverting water

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for —

- (a) agricultural purposes;
- (b) food or drink for human beings;
- (c) animals which are property;
- (d) cleanliness; or
- (e) carrying on any manufacturer,

shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 4 strokes.

Mischief by injury to public road, bridge, river or channel

431. Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any —

- (a) public road;
- (b) bridge;
- (c) navigable river; or
- (d) navigable channel, natural or artificial,

impassable or less safe for travelling or conveying property, shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 4 strokes.

Mischief by causing inundation or obstruction to public drainage attended with damage

432. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 4 strokes.

Mischief by destroying, moving or rendering less useful lighthouse or seamark

433. Whoever commits mischief by —

(a) destroying or moving any lighthouse or other light used as a sea-mark, or any sea-mark, buoy or other thing placed as a guide for navigators; or

(b) any act which renders any such lighthouse, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators,

shall be punished with imprisonment for a term not exceeding 7 years and with whipping with not less than 4 strokes.

Mischief by destroying or moving etc. landmark fixed by public authority

434. Whoever commits mischief by —

(a) destroying or moving any landmark fixed by the authority of a public servant; or

(b) any act which renders such landmark less useful as such,

shall be punished with imprisonment for a term not exceeding 5 years and whipping with not less than 4 strokes.

Mischief by fire or explosive substance with intent to cause damage

435. (1) Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property shall be punished —

(a) if such act causes death to any person, with death;

(b) if such act is to a petroleum pipeline, gas pipeline, water supply pipeline, electrical supply installation or any prescribed property, with death; or

(c) in any other case, with imprisonment for a term not exceeding 15 years and whipping with not less than 6 strokes.

(2) In subsection (1)(b), “prescribed property” means such property or place used by any public utility undertaking as may be declared by His Majesty the Sultan and Yang Di-Pertuan by order published in the *Gazette* to be prescribed property to which that paragraph applies.

Mischief by fire or explosive substance with intent to destroy house etc.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling, or as a place for the custody of property, shall be punished with imprisonment for life.

Mischief with intent to destroy or make unsafe decked vessel or one of 20 tons burden

437. Whoever commits mischief to any decked vessel, or any vessel of a burden of 20 tons or more —

(a) intending to destroy or render unsafe; or

(b) knowing it to be likely that he will thereby destroy or render unsafe,

that vessel, shall be punished with imprisonment for a term not exceeding 15 years and whipping with not less than 6 strokes.

Punishment for the mischief described in section 437 committed by fire or explosive substances

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in section 437, shall be punished with imprisonment for life.

Punishment for intentionally running vessel aground or ashore with intent to commit theft etc.

439. Whoever intentionally runs any vessel aground or ashore —

(a) intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property; or

(b) with intent that such theft or misappropriate of property may be committed,

shall be punished with imprisonment for a term not exceeding 10 years and whipping with not less than 6 strokes.

Mischief by committed after preparation made for causing death or hurt

440. Whoever commits mischief, having made preparation for causing to any person —

(a) death;

(b) hurt;

(c) wrongful restraint; or

(d) fear of death, of hurt or of wrongful restraint,

shall be punished with imprisonment for a term not exceeding 10 years and whipping with not less than 6 strokes.

*Criminal trespass***Criminal trespass**

441. Whoever enters into or upon property in the possession of another —

(a) with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or

(b) having lawfully entered into or to commit an offence or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person,

is said to commit “criminal trespass”.

Explanation — In this section, the definition of “offence” in section 40 is extended to include adultery.

House-trespass

442. Whoever commits criminal trespass by entering into or remaining in —

(a) any building, tent or vessel used as a human dwelling; or

(b) any building used as a place for worship or as a place for the custody of property,

is said to commit “house-trespass”.

Explanation — The introduction of any part of the criminal trespasser’s body entering is sufficient to constitute house-trespass.

Lurking house-trespass

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass”.

Lurking house-trespass by night

444. Whoever commits lurking house-trespass after sunset, and before sunrise, is said to commit “lurking house-trespass by night”.

House-breaking

445. A person is said to commit “house-breaking” who commits house-trespass, if he effects his entrance into the house or any part of it in any of the following six ways or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways —

(a) he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass;

(b) he enters or quits through any passage not intended by any person other than himself or an abettor of the offence for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building;

(c) he enters or quits through any passage which he or any abettor of the house-trespass has opened in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened;

(d) he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass;

(e) he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault;

(f) he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation — Any outhouse, or building occupied with a house and between which and such houses there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's house and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting wire through a hole in the door. This is house-breaking.

(f) *A* finds the key of *Z*'s house-door, which *Z* had lost, and commits house-trespass by entering *Z*'s house, having opened the door with that key. This is house-breaking.

(g) *Z* is standing in his doorway. *A* forces a passage by knocking *Z* down and commits house-trespass by entering the house. This is house-breaking.

(h) *Z*, the door-keeper of *Y*, is standing in *Y*'s doorway. *A* commits house-trespass by entering the house, having deterred *Z* from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night

446. Whoever commits house-breaking after sunset and before sunrise is said to commit "house-breaking by night".

Punishment for criminal trespass

447. Whoever commits criminal trespass shall be punished with imprisonment for a term not exceeding one year and fine.

Punishment for house-trespass

448. Whoever commits house-trespass shall be punished with imprisonment for a term not exceeding 3 years and fine.

Punishment for house-trespass in protected place or place of worship

[S 51/2014]

448A. (1) Whoever commits house-trespass in a protected place or a place of worship shall be punished with imprisonment for a term of not less than 2 years and not more than 7 years and whipping with not less than 2 strokes.

(2) For the purposes of subsection (1), "protected place" means any place or premises declared to be a protected place under section 5 of the Protected Areas and Protected Places Act (Chapter 147).

House-trespass in order to commit offence punishable with death

449. Whoever commits house-trespass in order to commit any offence punishable with death shall be punished with imprisonment for life and fine.

House-trespass in order to commit offence punishable with imprisonment for 15 years

450. Whoever commits house-trespass in order to commit any offence punishable with imprisonment for 15 years shall be punished with imprisonment for a term not exceeding 10 years and whipping.

House-trespass in order to commit offence punishable with imprisonment

451. Whoever commits house-trespass in order to commit any offence punishable with imprisonment shall be punished with imprisonment for a term not exceeding 5 years and fine.

And, if the offence intended to be committed is theft, the term of the imprisonment not exceeding 10 years.

House-trespass after preparation for hurt, assault or wrongful restraint

452. Whoever commits house-trespass, having made preparation for —

- (a) causing hurt to any person;
- (b) assaulting any person;
- (c) wrongfully restraining any person; or
- (d) putting any person in fear of hurt, assault or of wrongful restraint,

shall be punished with imprisonment for a term not exceeding 10 years and with whipping.

Punishment for lurking house-trespass or house-breaking

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Punishment for lurking house-trespass or house-breaking in protected place or place of worship [S 51/2014]

453A. (1) Whoever commits lurking house-trespass or house-breaking in a protected place or a place of worship shall be punished with imprisonment for a term of not less than 3 years and not more than 10 years and whipping with not less than 3 strokes.

(2) For the purposes of subsection (1), “protected place” means any place or premises declared to be a protected place under section 5 of the Protected Areas and Protected Places Act (Chapter 147).

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

454. Whoever commits lurking house-trespass or house-breaking in order to commit any offence punishable with imprisonment shall be punished with imprisonment for a term not exceeding 5 years and whipping.

If the offence intended to be committed is theft, he shall be punished with imprisonment not exceeding 10 years.

Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint

455. Whoever commits lurking house-trespass, or house-breaking having made preparation for —

- (a) causing hurt to any person;
- (b) assaulting any person;
- (c) wrongfully restraining any person; or
- (d) putting any person in fear of hurt, assault or wrongful restraint,

shall be punished with imprisonment for a term not exceeding 10 years and whipping.

Punishment for lurking house-trespass or house-breaking by night

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Punishment for lurking house-trespass or house-breaking by night in protected place or place of worship [S 51/2014]

456A. (1) Whoever commits lurking house-trespass by night, or house-breaking by night in a protected place or a place of worship shall be punished with imprisonment for a term of not less than 3 years and not more than 10 years and whipping with not less than 3 strokes.

(2) For the purposes of subsection (1), “protected place” means any place or premises declared to be a protected place under section 5 of the Protected Areas and Protected Places Act (Chapter 147).

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

If the offence intended to be committed is theft, he shall be punished with imprisonment not exceeding 15 years.

Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint

458. Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for —

- (a) causing hurt to any person;
- (b) assaulting any person;
- (c) wrongfully restraining any person; or
- (d) putting any person in fear of hurt or of assault, or of wrongful restraint,

shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 6 strokes.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person shall be punished with imprisonment for a term not exceeding 30 years and whipping with not less than 6 strokes.

All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them

460. If at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night shall be punished with imprisonment for life.

Dishonestly, breaking open receptacle containing property

461. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

Punishment for same offence when committed by person entrusted with custody

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the receptacle, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment for a term not exceeding 5 years and whipping.

CHAPTER XVIII

OFFENCES RELATING TO DOCUMENTS, FALSE DOCUMENTS AND
CURRENCY NOTES AND BANK NOTES

Forgery

463. Whoever makes false document, or part of a document —

(a) with intent —

- (i) to cause damage or injury to the public or to any person;
- (ii) to support any claim or title;
- (iii) to cause any person to part with property; or

(iv) to enter into any express or implied contract; or

(b) with intent to commit fraud, or that fraud may be committed,

commits forgery.

Making false document

464. A person is said to make a false document, who —

(a) dishonestly or fraudulently, makes, signs, seals or executes a document, or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed;

(b) without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

(c) dishonestly or fraudulently, causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations

(a) *A* has a letter of credit upon *B* for \$10,000, written by *Z*. *A*, in order to defraud *B*, adds a cipher to the \$10,000, and makes the sum \$100,000, intending that it may be believed by *B* that *Z* so wrote the letter. *A* has committed forgery.

(b) *A*, without *Z*'s authority, affixes *Z*'s seal to a document purporting to be a conveyance of an estate from *Z* to *A*, with the intention of selling the estate to *B*, and thereby obtaining from *B* the purchase-money. *A* has committed forgery.

(c) *A* picks up a cheque on a banker signed by *B* payable to bearer, but without any sum having been inserted in the cheque. *A* fraudulently fills up the cheque by inserting the sum of \$10. *A* commits forgery.

(d) *A* leaves with *B*, his agent, a cheque on a banker signed by *A*, without inserting the sum payable and authorised *B* to fill up the cheque by inserting a sum not exceeding \$10,000 for the purpose of making certain payments. *B* fraudulently fills up the cheque by inserting the sum of \$20,000. *B* commits forgery.

(e) *A* draws a bill of exchange on himself in the name of *B* without *B*'s authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as *A* draws the bill with intent to deceive the banker by leading him to suppose that he had the security of *B*, and thereby to discount the bill. *A* is guilty of forgery.

(f) *Z*'s will contains these words: "I direct that all my remaining property be equally divided between *A*, *B* and *C*". *A* dishonestly scratches out *B*'s name, intending that it may be believed that the whole was left to himself and *C*. *A* has committed forgery.

(g) *A* indorses a promissory note, and makes it payable to *Z* or his order, by writing on the bill the words "Pay to *Z* or his order", and signing the indorsement. *B* dishonestly erases the words "Pay to *Z* or his order", and thereby converts the special indorsement into a blank indorsement. *B* commits forgery.

(h) *A* sells and conveys an estate to *Z*. *A* afterwards, in order to defraud *Z* of his estate, executes a conveyance of the same estate to *B*, dated 6 months earlier than the date of the conveyance to *Z*, intending it to be believed that he had conveyed the estate to *B* before he conveyed it to *Z*. *A* has committed forgery.

(i) *Z* dictates his will to *A*. *A* intentionally writes down a different legatee from the legatee named by *Z*, and, by representing to *Z* that he has prepared the will according to his instructions, induces *Z* to sign the will. *A* has committed forgery.

(j) *A* writes a letter and signs it with *B*'s name without *B*'s authority, certifying that *A* is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from *Z* and other persons. Here, as *A* made a false document in order to induce *Z* to part with property, *A* has committed forgery.

(k) *A*, without *B*'s authority, writes a letter and signs it in *B*'s name certifying to *A*'s character, intending thereby to obtain employment under *Z*. *A* has committed forgery, inasmuch as he intended to deceive *Z* by the forged certificate, and thereby to induce *Z* to enter into an express or implied contract for service.

Explanation 1 — A man's signature of his own name may amount to forgery.

Illustrations

(a) *A* signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. *A* has committed forgery.

(b) *A* writes the word "accepted" on a piece of paper and signs it with *Z*'s name, in order that *B* may afterwards write on the paper a bill of exchange drawn by *B* upon *Z*, and negotiate the bill as though it had been accepted by *Z*. *A* is guilty of forgery, and if *B*, knowing the fact, draws the bill upon the paper pursuant to *A*'s intention, *B* is also guilty of forgery.

(c) *A* picks up a bill of exchange payable to the order of a different person of the same name. *A* indorses the bill in his own name, intending to cause it to be believed that it was indorsed by the person to whose order it was payable. Here, *A* has committed forgery.

(d) *A* purchases an estate sold under execution of a decree against *B*. *B*, after the seizure of the estate, in collusion with *Z*, executes a lease of the estate to *Z* at a nominal rent and for a long period, and dates the lease 6 months prior to the seizure, with intent to defraud *A*, and to cause it to be believed that the lease was granted before the seizure. *B*, though he executes the lease in his own name, commits forgery by antedating it.

(e) *A*, a trader, in anticipation of insolvency, lodges effects with *B* for *A*'s benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to *B* a sum for value received, and antedates the note, intending that it may be believed to have been made before *A* was on the point of insolvency. *A* has committed forgery under the first head of the definition.

Explanation 2 — The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. *A* commits forgery.

Punishment for forgery

465. Whoever commits forgery shall be punished with imprisonment for a term not exceeding 5 years and fine.

Forgery of record of Court or of public register etc.

466. Whoever forges a document, purporting to be —

- (a) a record or proceeding of or in a Court of Justice;
- (b) a register of birth, baptism, marriage, or burial, or a register kept by a public servant as such;
- (c) a certificate or document purporting to be made by a public servant in his official capacity; or
- (d) an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment or a power of attorney,

shall be punished with imprisonment for a term not exceeding 7 years and fine.

Forgery of valuable security or will etc.

467. Whoever forges a document which —

(a) purports to be a valuable security, a will or an authority to adopt a son; or

(b) purports to —

- (i) give authority to any person to make or transfer any valuable security;
- (ii) receive the principal, interest or dividends thereon; or
- (iii) receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Forgery for purpose of cheating

468. Whoever commits forgery, intending that the document forged shall be used for the purposes of cheating, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Forgery for purpose of harming reputation

469. Whoever commits forgery —

(a) intending that the document forged shall harm the reputation of any party; or

(b) knowing that it is likely to be used for that purpose,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Forged document

470. A false document made wholly or in part by forgery is designated “a forged document”.

Using as genuine forged document

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document.

Making or possessing counterfeit seal etc. with intent to commit forgery punishable under section 467

472. Whoever —

(a) makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code; or

(b) with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Making or possessing counterfeit seal etc. with intent to commit forgery punishable otherwise

473. Whoever —

(a) makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467; or

(b) with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Having possession of valuable security or will etc. knowing it to be forged and intending to use it as genuine

474. Whoever has in his possession any document knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in —

(a) section 466, be punished with imprisonment for a term not exceeding 10 years and fine; and

(b) section 467, shall be punished with imprisonment for a term not exceeding 15 years and fine.

Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material

475. Whoever —

(a) counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material; or

(b) with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material

476. Whoever —

(a) counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material; or

(b) with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Fraudulent cancellation, destruction etc. of will, authority to adopt or valuable security

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or any person —

(a) cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete, any document which is, or purports to be a valuable security, a will or an authority to adopt a son; or

(b) commits mischief in respect of such document,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Falsification of accounts

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud —

(a) destroys, alters, mutilates falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer; or

(b) makes or abets the making of any false entry, in or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, valuable security or account,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Explanation — It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

478. — 489. *(No sections).*

Currency notes and bank notes

Counterfeiting currency notes or bank notes

489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency note or bank note, shall be punished with imprisonment for a term not exceeding 15 years and fine.

Explanation — For the purposes of this section and of sections 489B, 489C and 489D, “bank note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or sovereign power, and intended to be used as equivalent to, or as a substitute for, money.

Using as genuine forged or counterfeit currency notes or bank notes

489B. Whoever —

(a) sells to, or buys or receives from, any other person; or

(b) otherwise traffics in or uses as genuine,

any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for a term not exceeding 15 years and fine.

Possession of forged or counterfeit currency notes or bank notes

489C. Whoever has in his possession any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit, and intending to use the same as genuine, or that it may be used as genuine, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes

489D. Whoever —

(a) makes, or performs any part of the process of making, or buys or sells or disposes of; or

(b) has in his possession, any machinery, instrument or material,

for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency note or bank note, shall be punished with imprisonment for a term not exceeding 10 years and fine.

CHAPTER XIX

CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. — 492. (*No sections*).

CHAPTER XX

OFFENCES RELATING TO MARRIAGE

Cohabitation caused by man deceitfully inducing belief of lawful marriage

493. Every man who by deceit causes any woman who is not lawfully married to him —

(a) to believe that she is lawfully married to him; and

(b) to cohabit or have sexual intercourse with him in that belief,

shall be punished with imprisonment for a term not exceeding 10 years and fine.

Marrying again during life-time of husband or wife

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment for a term not exceeding 7 years and fine.

Exception — This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction; nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of 7 years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

495. Whoever commits the offence defined in section 494, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment for a term not exceeding 10 years and fine.

Marriage ceremony fraudulently gone through without lawful marriage

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment for a term not exceeding 7 years and fine.

497. (*No section*).

Enticing or taking away or detaining with criminal intent married woman

498. Whoever —

(a) takes or entices away any woman, who is, and whom he knows or has reason to believe to be, the wife of any other man, from that man, or from any person having the care of her on behalf

of that man, with intent that she may have illicit intercourse with any person; or

(b) conceals or detains with that intent any such woman,

shall be punished with imprisonment for a term not exceeding 2 years, fine or both.

CHAPTER XXI

DEFAMATION

Defamation

499. Whoever, by words either spoken or intended to be read, or by signs, or by visible representations, makes or publishes any imputation concerning any person —

(a) intending to harm; or

(b) knowing or having reason to believe that such imputation will harm,

the reputation of such person, is said, except in the case hereinafter excepted, to defame that person.

Explanation 1 — It may amount to defamation to impute anything to a deceased person if the imputation would harm the reputation of that person if living, and is intended to be harmful to the feelings of his family or other near relatives.

Explanation 2 — It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3 — An imputation in the form of an alternative, or expressed ironically, may amount to defamation.

Explanation 4 — No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

(a) *A* says “*Z* is an honest man; he never stole *B*’s watch”, intending to cause it to be believed that *Z* did steal *B*’s watch. This is defamation, unless it fall within one of the exceptions.

(b) *A* is asked who stole *B*’s watch. *A* points to *Z*, intending to cause it to be believed that *Z* stole *B*’s watch. This is defamation, unless it fall within one of the exceptions.

(c) *A* draws a picture of *Z* running away with *B*’s watch, intending it to be believed that *Z* stole *B*’s watch. This is defamation, unless it fall within one of the exceptions.

Imputation of truth which public good requires to be made or published

First Exception — It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or punished. Whether or not it is for the public good is a question of fact.

Public conduct of public servants

Second Exception — It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of person touching public question

Third Exception — It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character, so far as his character appears in that conduct, and no further.

Illustration

It is not defamation in *A* to express in good faith any opinion whatever respecting *Z*’s conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication of report of proceedings of Courts

Fourth Exception — It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation — A Magistrate or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of section 499.

Merits of case decided in Court, or conduct of witnesses and others concerned

Fifth Exception — It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations

(a) *A* says “I think *Z*’s evidence on that trial is so contradictory that he must be stupid or dishonest”. *A* is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects *Z*’s character as it appears in *Z*’s conduct as a witness, and no further.

(b) But if *A* says “I do not believe what *Z* asserted at that trial because I know him to be a man without veracity”. *A* is not within the exception inasmuch as the opinion which he expresses of *Z*’s character is an opinion not founded on *Z*’s conduct as a witness.

Merits of public performance

Sixth Exception — It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author, so far as his character appears in such performance, and no further.

Explanation — A performance may be submitted to the judgment of the public expressly, or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

(a) A person who publishes a book submits that book to the judgment of the public.

(b) A person who makes a speech in public submits that speech to the judgment of the public.

(c) An actor or singer, who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) *A* says of a book published by *Z*: “*Z*’s book is foolish, *Z* must be a weak man; *Z*’s book is indecent, *Z* must be a man of impure mind”. *A* is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of *Z* respects *Z*’s character only so far as it appears in *Z*’s book, and no further.

(e) But, if *A* says, “I am not surprised that *Z*’s book is foolish and indecent, for he is a weak man, and a libertine”. *A* is not within this exception, inasmuch as the opinion which he expresses of *Z*’s character is an opinion not founded on *Z*’s book.

Censure passed in good faith by person having lawful authority over another

Seventh Exception — It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court, a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier — are within this exception.

Accusation preferred in good faith to authorised person

Eighth Exception — It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of the accusation.

Illustration

If *A* in good faith accuses *Z* before a Magistrate; if *A* in good faith complains of the conduct of *Z*, a servant, to *Z*’s master; if *A* in good faith complains of the conduct of *Z*, a child to *Z*’s father — *A* is within this exception.

Imputation made in good faith by person for protection of his or other’s interest

Ninth Exception — It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or any other person, or for the public good.

Illustrations

(a) *A*, a shopkeeper, says to *B*, who manages his business “Sell nothing to *Z* unless he pays you ready money, for I have no opinion of his honesty”. *A* is within the exception, if he has made this imputation on *Z* in good faith for the protection of his own interests.

(b) *A*, a Magistrate, in making a report to his superior officer, casts an imputation on the character of *Z*. Here, if the imputation is made in good faith, and for the public good, *A* is within the exception.

Caution intended for good of person to whom conveyed or for public good

Tenth Exception — It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Punishment for defamation

500. Whoever defames another shall be punished with imprisonment for a term not exceeding 5 years and fine.

Printing or engraving matter known to be defamatory

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person shall be punished with imprisonment for a term not exceeding 5 years and fine.

Sale of printed or engraved substance containing defamatory matter

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with imprisonment for a term not exceeding 5 years and fine.

CHAPTER XXII

CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

Criminal intimidation

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause —

(a) alarm to that person; or

(b) that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do,

as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation — A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration

A, for the purpose of inducing *B* to desist from prosecuting a civil suit, threatens to burn *B*'s house. *A* is guilty of criminal intimidation.

Intentional insult with intent to provoke breach of peace

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment for a term not exceeding 3 years and fine.

Statements conducting to public mischief

505. Whoever makes, publishes or circulates any statement, rumour or report —

(a) with intent to cause, or which is likely to cause, any officer or constable in the police forces of Brunei Darussalam or any officer, soldier, sailor or airman in the armed forces of His Majesty the Sultan and Yang Di-Pertuan to mutiny or otherwise disregard or fail in his duty as such;

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against Brunei Darussalam or against the public tranquillity; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment for a term not exceeding 5 years and fine.

Exception — It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.

Punishment for criminal intimidation

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

If the threat is —

- (a) to cause death or grievous hurt; or
- (b) to cause the destruction of any property by fire;
- (c) to cause an offence punishable with death or imprisonment for a term not exceeding 7 years; or
- (d) to impute unchastity to a woman,

he shall be punished with imprisonment for a term not exceeding 7 years, fine or both.

Criminal intimidation by anonymous communication

507. Whoever commits the offence of criminal intimidation by any anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment for a term not exceeding 3 years, in addition to the punishment provided for the offence by section 506.

Act caused by inducing person to believe that he will be rendered object of divine displeasure

508. Whoever voluntarily causes or attempts to cause any person —

- (a) to do anything which that person is not legally bound to do;
or
- (b) omit to do anything which he is legally entitled to do,

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become, or will be rendered by some act of the offender, an object of divine displeasure, if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

Illustrations

(a) *A* performs a ceremony at *Z*'s door with the intention of causing it to be believed that, by so performing, he renders *Z* an object of divine displeasure. *A* has committed the offence defined in this section.

(b) *A* threatens *Z* that unless *Z* performs a certain act, *A* will kill one of *A*'s own children under such circumstances that the killing would be believed to render *Z* an object of divine displeasure. *A* has committed the offence defined in this section.

Word, gesture or act intended to insult modesty of woman

509. Whoever, intending to insult the modesty of any woman —

(a) utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman; or

(b) intrudes upon the privacy of such woman,

shall be punished with imprisonment for a term not exceeding 3 years and fine.

Misconduct in public by drunken person

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with imprisonment for a term not exceeding 6 months and fine.

CHAPTER XXIII

ATTEMPTS TO COMMIT OFFENCES

Punishment for attempting to commit offences

511. Whoever attempts —

(a) to commit an offence punishable by this Code or by any other written law with imprisonment, fine or whipping or with a combination of such punishments; or

(b) to cause such an offence to be committed,

and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code or by such other written law, as the case may be, for the punishment of such attempt, be punished with such punishment as is provided for the offence:

Provided that any term of imprisonment imposed shall not exceed one-half of the longest term provided for the offence.

Illustrations

(a) *A* makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) *A* makes an attempt to pick the pocket of *Z* by thrusting his hand into *Z*'s pocket. *A* fails in the attempt in consequence of *Z* having nothing in his pocket. *A* is guilty under this section.